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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, October 22, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Federal Register
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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Wednesday, October 23, 2013, 7:30 a.m. EDT.

PLACE: Broadcasting Board of Governors, Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUBJECT: Notice of Closed Meeting of the Broadcasting Board of Governors.

SUMMARY: The members of the Broadcasting Board of Governors (BBG) will meet in a closed session to consider the appointment of a General Counsel. This meeting will be closed to public observation pursuant to 5 U.S.C. 552b(c)(6) in order to protect the privacy interests of candidates considered but not selected for the position. In accordance with the Government in the Sunshine Act and BBG policies, the meeting will be recorded and a transcript of the proceedings, subject to the redaction of information protected by 5 U.S.C. 552b(c)(6), will be made available to the public. The publicly-releasable transcript will be available for download at *www.bbg.gov* within 21 days of the date of the meeting.

Information regarding member votes to close the meeting and expected attendees can also be found on the Agency's public Web site.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. 2013–24577 Filed 10–17–13; 4:15 pm]

BILLING CODE 8610–01–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting Notice

DATE AND TIME: Wednesday, October 23, 2013, 9:15 a.m. EDT.

PLACE: Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUBJECT: Notice of Meeting of the Broadcasting Board of Governors.

SUMMARY: The Broadcasting Board of Governors (BBG) will be meeting at the time and location listed above. Items on the Board's consent agenda include the minutes of the August 21, 2013 meeting and resolutions concerning proposed meeting dates for calendar year 2014, reform of the Board's committee structure, establishment of a special committee on a chief executive officer, establishment of a special committee on shortwave, the Boards of Directors of BBG-funded grantees, and Board travel policy.

This meeting will also be available for public observation via streamed webcast, both live and on-demand, on the BBG's public Web site at *www.bbg.gov.* Information regarding this meeting, including any updates or adjustments to its starting time, can also be found on the Agency's public Web site.

The public may also attend this meeting in person, unless the partial government shutdown persists, at the address listed above as seating capacity permits. Member of the public seeking to attend the meeting in person must register at *https://bbgboardmeetingoct2013.eventbrite.com* by 12:00 p.m. (EDT) on October 22. For more information, please contact BBG Public Affairs at (202) 203–4400 or by email at *pubaff@bbg.gov.*

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. 2013–24576 Filed 10–17–13; 4:15 pm]

BILLING CODE 8610–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 485–065]

Georgia Power Company; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 485–065.

c. *Date filed:* December 13, 2012.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Bartletts Ferry Hydroelectric Project.

f. *Location:* The existing project is located on the Chattahoochee River, along the Georgia-Alabama border, in Harris County, Georgia, and Lee and Chambers counties, Alabama. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* George A. Martin, Hydro Relicensing Project Manager, Georgia Power Company, 241 Ralph McGill Blvd. NE., BIN 10221, Atlanta, GA 30308; Telephone (404) 506–1357; email—*gamartin@southernco.com.*

i. *FERC Contact:* Allan Creamer; Telephone (202) 502–8365; email—*allan.creamer@ferc.gov.*

j. Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary prescriptions: 60 days from the issuance date of this notice (December 10, 2013); reply comments are due 105 days from the issuance date of this notice (January 24, 2014).

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments

up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–485–065.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *Project Description:* The project consists of a 2,052-foot-long dam, two powerhouses, and a 5,850-acre reservoir (Bartletts Ferry Reservoir or Lake Harding) at a normal water surface elevation of 520.16 feet mean sea level (msl; or 521.0 Plant Datum).

The west side of the project, from west to east, consists of: (1) A 1,230-foot-long, 11.25-foot-high, 22-bay auxiliary labyrinth spillway; (2) a 286-foot-long, 35-foot-high, earth-fill embankment dam; (3) a 92-foot-long by 94-foot-high concrete gravity intake structure, equipped with four vertical lift steel intake gates, connected to the west powerhouse by four 15-foot diameter penstocks; (4) a powerhouse containing three vertical Francis turbines rated at 15 megawatts (MW) each and a fourth vertical Francis turbine rated at 20 MW, with a total installed capacity of 65 MW; and (5) a 634-foot-long concrete gravity spillway with nineteen 21-foot-high by 25-foot-wide radial gates, two 9-foot-high by 11-foot-wide vertical lift trash gates, and four abandoned siphons in two spillway bays.

The east side of the project, from west to east, consists of: (1) A 915-foot-long, 125-foot-high, earth-fill embankment dam; (2) a 650-foot-long intake canal leading to a 177-foot-long concrete gravity intake structure; (3) two penstocks; and (4) a powerhouse with two vertical Francis turbines rated at 54 MW each, with a total installed capacity of 108 MW.

The project is operated in a peaking mode, and is coordinated with the peaking operations at the U.S. Army Corps of Engineers' upstream West Point Dam. The project is normally operated between elevations 518.16 and 520.16 feet msl (or 519.0 and 521.0 Plant Datum), with normal daily average fluctuations of about ¾; foot. The project has an average annual generation of approximately 395,577 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room, or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must: (1) Bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. *Procedural Schedule:*

The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	December 2013.
Commission issues EA	April 2014.
Comments on EA	May 2014.
Modified terms and conditions.	July 2014.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in § 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: October 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24517 Filed 10–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3697–000, ER11–3697–005.

Applicants: Southern California Edison Company.

Description: Correction to August 26, 2013 Offer of Settlement of Southern California Edison Company.

Filed Date: 10/9/13.

Accession Number: 20131009–5160.

Comments Due: 5 p.m. ET 10/15/13.

Docket Numbers: ER14–67–000.
Applicants: Southwest Power Pool, Inc.
Description: 1148R16 American Electric Power NITSA and NOAs to be effective 10/1/2013.
Filed Date: 10/9/13.
Accession Number: 20131009–5140.
Comments Due: 5 p.m. ET 10/30/13.

Docket Numbers: ER14–68–000.
Applicants: California Independent System Operator Corporation.
Description: Petition for Approval of Disposition of Proceeds of Penalty Assessments of the California Independent System Operator Corporation.
Filed Date: 10/9/13.
Accession Number: 20131009–5161.
Comments Due: 5 p.m. ET 10/30/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 10, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24519 Filed 10–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR14–2–000.
Applicants: Washington 10 Storage Corporation.
Description: Tariff filing per 284.123/.224: Revised SOC Applicable to Transportation Services to be effective 8/16/2013.
Filed Date: 10/4/13.
Accession Number: 20131004–5051.
Comments Due: 5 p.m. ET 10/25/13.

Docket Numbers: RP14–30–000.
Applicants: Texas Gas Transmission, LLC.
Description: Amendment to Neg Rate Agmt (Cross Timbers 29061–4) to be effective 10/8/2013.
Filed Date: 10/8/13.
Accession Number: 20131008–5060.
Comments Due: 5 p.m. ET 10/21/13.

Docket Numbers: RP14–31–000.
Applicants: Northwest Pipeline LLC.
Description: South Seattle Lateral Compliance Filing to be effective 11/1/2013.
Filed Date: 10/8/13.
Accession Number: 20131008–5097.
Comments Due: 5 p.m. ET 10/21/13.

Docket Numbers: RP14–32–000.
Applicants: Dominion Transmission, Inc.
Description: DTI—October 9, 2013 Negotiated Rate Agreement to be effective 10/10/2013.
Filed Date: 10/9/13.
Accession Number: 20131009–5106.
Comments Due: 5 p.m. ET 10/21/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 10, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24512 Filed 10–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13160–004]

Red River Hydro LLC; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 Code of Federal Regulations (CFR) Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed Red River Hydro LLC's application for an original license for the Overton Lock and Dam Hydroelectric Project (FERC Project No. 13160–004) and prepared a final environmental assessment (EA). The project would be located on the Red River in Rapides Parish, Louisiana, at an existing lock and dam operated by the U.S. Army Corps of Engineers. The project, if licensed, would occupy a total of 38.7 acres of federal land.

In the EA, Commission staff analyzes the potential environmental effects of licensing the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659.

You may also register online at *www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice. Comments may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and five copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please affix, ''Overton Lock and Dam

Hydroelectric Project, P–13160–004'' to all comments.

For further information, contact Lesley Kordella by telephone at 202–502–6406 or by email at *Lesley.Kordella@ferc.gov.*

Dated: October 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24514 Filed 10–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–7249–000]

de Aguero, Fernando; Notice of Filing

Take notice that on October 11, 2013, Fernando de Aguero submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act (FPA), 16 U.S.C. 825d(b) and part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on November 1, 2013.

Dated: October 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24516 Filed 10–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–2108–000]

PJM Interconnection, L.L.C.; Notice of Technical Conference

Federal Energy Regulatory Commission (Commission) staff will hold a technical conference on November 13, 2013 from 9:00 a.m. to approximately 1:00 p.m., to consider issues related to PJM Interconnection, L.L.C.'s (PJM) proposed demand response plan enhancements, as announced in the October 1, 2013 order in this docket.[1] The conference will be held in Hearing Room 2 at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

At the technical conference, the Commission Staff and the parties to the proceeding can discuss all of the issues raised by PJM's filing. In particular, parties should be prepared to discuss the following:

1. According to PJM, RPM markets are physical markets, and any resource bid into an RPM auction should intend to physically provide any offered capacity that clears in the relevant delivery year. Can PJM distinguish between companies purchasing capacity resources in the incremental auctions to make up shortfalls due to difficulties meeting their obligation and companies that arbitrage between the base residual and incremental auctions? How will the informational requirements for DR resources under this proposal help guarantee that DR resources are using the Incremental Auctions as intended?

2. Do generating resources face comparable informational requirements? If there are differences, what are the reasons for those differences? Do the existing information requirements for generators reduce the rate with which these resources buy out their obligations in the Incremental Auctions?

3. PJM states that its proposed changes will allow it to make a ''more reasoned assessment'' of a DR Provider's reliance on expected commitments. How will PJM determine whether submitted milestones are reasonable? How much discretion will PJM staff exercise in accepting Sell Offer Plans?

4. What is the impact on reliability of the observed increase in purchases of replacement capacity through the Incremental Auctions as compared to the Base Residual Auction? What are the effects on price for end-use customers? What evidence is there that DR obligated to perform by the start of a Delivery Year, or replacement capacity purchased through the Incremental Auctions, is less capable of meeting performance obligations than generation or DR that cleared through the Base Residual Auction? Are there indications that the DR that cleared in the Base Residual Auction in zones with high DR penetration is less likely to show up, or perform in the delivery year, than in other zones? Are there other reliability issues that stem from high DR penetration in these zones?

5. Do the recent series of Incremental Auctions with lower clearing prices than the Base Residual Auction result directly from RPM's market rules or some other factor?

Following the conference, the Commission will consider post-technical conference comments submitted by November 27, 2013. Answers to post-technical conference comments are due by close of business on December 4, 2013.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

All interested persons are permitted to attend. For more information about the technical conference, please contact:

Tristan Cohen (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6598, *Tristan.Cohen@ferc.gov.*

Sarah McKinley (Logistical Information), Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8004, *Sarah.McKinley@ferc.gov.*

[1] On October 1, 2013 the Commission issued an Order Conditionally Accepting and Suspending Proposed Tariff Changes and Instituting a Technical Conference in Docket No. ER13–2108–000.

Dated: October 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24515 Filed 10–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2277–023]

Union Electric Company (dba Ameren Missouri); Missouri; Taum Sauk Pumped Storage Project; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure [1] provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding. The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Missouri State Historic Preservation Office (Missouri SHPO) and the Advisory Council on Historic Preservation (Advisory Council) pursuant to the Advisory Council's regulations, 36 CFR Part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (16 U.S.C. 470f), to prepare a Programmatic Agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places that could be affected by issuance of a new license for the Taum Sauk Pumped Storage Project No. 2277.

The programmatic agreement, when executed by the Commission and the Missouri SHPO, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13(e)). The Commission's responsibilities pursuant to section 106 for the project would be fulfilled through the Programmatic Agreement, which the Commission staff proposes to draft in consultation with certain parties listed below. The executed Programmatic Agreement would be incorporated into any Order issuing a license.

Union Electric Company (doing business as Ameren Missouri), as applicant for the Taum Sauk Pumped Storage Project and the Osage Nation have expressed an interest in this proceeding and are invited to participate in consultations to develop the Programmatic Agreement. For purposes of commenting on the programmatic agreement, we propose to restrict the service list for Project No. 2277 as follows:

John Eddins or Representative, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue NW., Washington, DC 20004.

Judith Deel or Representative, Missouri State Historic Preservation Office, 1101 Riverside Dr., Jefferson City, MO 65101.

Dr. Andrea A. Hunter or Representative, Osage Nation, Tribal Historic Preservation Office, 627 Grandview, Pawhuska, Oklahoma 74056.

Michael Lobbig, P.E., PMP or Representative, Managing Supervisor, Hydro Licensing, Dam Safety & Hydro Engineering Department, Ameren Missouri, Power Operations Services, 3700 S. Lindbergh Blvd., St. Louis, Missouri 63127.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

The Commission strongly encourages electronic filing. Please file motions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2277–023.

If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions within the 15-day period.

Dated: October 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24518 Filed 10–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2558–029]

Green Mountain Power Corporation; Vermont; Otter Creek Hydroelectric Project; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure [1] provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding. The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Vermont State Historic Preservation Office (Vermont SHPO) and the Advisory Council on Historic Preservation (Advisory Council) pursuant to the Advisory Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (16 U.S.C. 470f), to prepare a Programmatic Agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places that could be affected by issuance of a new license for the Otter Creek Hydroelectric Project No. 2558.

The programmatic agreement, when executed by the Commission and the Vermont SHPO, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the project would be fulfilled through the Programmatic

[1] 18 CFR 385.2010.

[1] 18 CFR 385.2010.

Agreement, which the Commission staff proposes to draft in consultation with certain parties listed below. The executed Programmatic Agreement would be incorporated into any Order issuing a license.

Green Mountain Power Corporation, as applicant for the Otter Creek Hydroelectric Project, has expressed an interest in this proceeding and is invited to participate in consultations to develop the Programmatic Agreement. For purposes of commenting on the programmatic agreement, we propose to restrict the service list for Project No. 2558 as follows:

John Eddins or Representative, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue NW., Washington, DC 20004.

Giovanna Peebles or Representative, State of Vermont, Division for Historic Preservation, One National Life Drive, Floor 6, Montpelier, VT 05620–0501.

Michael Scarzello or Representative, Green Mountain Power Corporation, 77 Grove St., Rutland, VT 05701.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

The Commission strongly encourages electronic filing. Please file motions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2558–029.

If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions within the 15-day period.

Dated: October 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24513 Filed 10–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM12–17–000; RM01–5–000]

Revisions to Procedural Regulations Governing Transportation by Intrastate Pipelines; Electronic Tariff Filings; Notice of Changes to Etariff Type of Filing Codes

Order No. 781, effective September 30, 2013, provides optional notice procedures for processing rate filings by those natural gas pipelines that fall under the Commission's jurisdiction pursuant to the Natural Gas Policy Act of 1978 or the Natural Gas Act.[1] Take notice that, effective November 12, 2013, the list of available eTariff Type of Filing Codes (TOFC) will be modified.[2]

For more information, contact James Sarikas, Office of Energy Market Regulation at (202) 502–6831 or send an email to *FERConline@ferc.gov.*

Dated: October 11, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–24520 Filed 10–18–13; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:17 a.m. on Tuesday, October 8, 2013, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision, corporate, and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Jeremiah O. Norton (Appointive), concurred in by Director Thomas J. Curry (Comptroller of the Currency), Director Richard Cordray (Director, Consumer Financial Protection Bureau), and Chairman Martin J. Gruenberg, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: October 8, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

EDITORIAL NOTE: This document was received by the Office of the Federal Register on October 17, 2013.

[FR Doc. 2013–24535 Filed 10–17–13; 11:15 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, October 8, 2013, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Memorandum and resolution re: Designated Reserve Ratio for 2014.

Memorandum and resolution re: Authorization to Publish Privacy Act System of Records Notices in the **Federal Register.**

Memorandum and resolution re: Proposed Amendment to Bylaws to Enable Any One Board Member to Request That a Matter Set for

[1] *Revisions to Procedural Regulations Governing Transportation by Intrastate Pipelines,* 144 FERC ¶ 61,034 (2013) (Order No. 781).

[2] The type of filing business process categories are described in the *Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300, and 341 Tariff Filings* (August 12, 2013), found on the Commission's Web site, *http://www.ferc.gov/docs-filing/etariff/implementation-guide.pdf.*

Notational Voting Be Considered at a Board Meeting.

Summary reports, status reports, reports of the Office of Inspector General, and reports of actions taken pursuant to authority delegated by the Board of Directors.

DISCUSSION AGENDA:

Memorandum and resolution re: Joint Notice of Proposed Rulemaking for the Purpose of Implementing Certain Aspects of the Biggert-Waters Flood Insurance Reform Act.

Memorandum re: Update of Projected Deposit Insurance Fund Losses, Income, and Reserve Ratios for the Restoration Plan.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *http://www.vodium.com/goto/fdic/boardmeetings.asp* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated: October 1, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

EDITORIAL NOTE: This document was received by the Office of the Federal Register on October 17, 2013.

[FR Doc. 2013–24536 Filed 10–17–13; 11:15 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 14, 2013.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Elkton Holding Company,* Elkton, South Dakota; to acquire 100 percent of the voting shares of The First National Bank of Volga, Volga, South Dakota.

B. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *WCM-Parkway, Ltd.,* Dallas, Texas; to acquire up to 15 percent of the voting shares of Veritex Holdings, Inc., and thereby indirectly acquire voting shares of Veritex Community Bank, both in Dallas, Texas.

Board of Governors of the Federal Reserve System, October 15, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–24511 Filed 10–18–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 15, 2013.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Lake Shore III Corporation,* Glenwood City, Wisconsin; to acquire 100 percent of the voting shares of Union Bank of Blair, Blair, Wisconsin.

Board of Governors of the Federal Reserve System, October 16, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–24522 Filed 10–18–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 9:00 a.m. (Eastern Time) October 28, 2013.

PLACE: 10th Floor Board Meeting Room, 77 K Street NE., Washington, DC 20002.

STATUS: Parts will be open to the public and parts closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the Minutes of the September 23, 2013 Board Member Meeting
2. Thrift Savings Plan Activity Reports by the Executive Director
   a. Monthly Participant Activity Report
   b. Quarterly Investment Policy Report

c. Legislative Report
3. Mid-Year Financial Audit
4. Audit Status
5. Capital Markets and L Fund
6. Human Capital Review/ORM Report
7. Quarterly Vendor Financials

Parts Closed to the Public

1. Personnel
2. Security

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: October 17, 2013.

Megan Grumbine,

Acting Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. 2013–24717 Filed 10–17–13; 4:15 pm]

BILLING CODE 6760–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, October 24, 2013.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Board Briefing, Interagency Rule, NCUA's Rules and Regulations, Loans in Areas Having Special Flood Hazards.
2. Quarterly National Credit Union Share Insurance Fund Report.
3. NCUA's Rules and Regulations, Electronic Filing of Financial Reports.
4. NCUA's Rules and Regulations, Liquidity and Contingency Funding Plans.
5. NCUA's Rules and Regulations, Credit Union Capital Planning and Stress Testing.

RECESS: 11:30 a.m.

TIME AND DATE: 11:45 a.m., Thursday, October 24, 2013.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request under Section 205(d) of the Federal Credit Union Act. Closed pursuant to exemption (6).
2. Request under Section 205(d) of the Federal Credit Union Act. Closed pursuant to exemption (6).

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–24650 Filed 10–17–13; 4:15 pm]

BILLING CODE 7535–01–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

DATES AND TIMES: October 22, 2013, at 9:00 a.m.

PLACE: Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Tuesday, October 22, 2013 at 9:00 a.m.

1. Strategic Issues.
2. Financial Matters.
3. Pricing.
4. Personnel Matters and Compensation Issues.
5. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

CONTACT PERSON FOR MORE INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. 2013–24723 Filed 10–17–13; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on October 8, 2013, at 10:00 a.m., and a Closed Meeting at 2:00 p.m., in Room 10800 at the Commission's headquarters building.

The subject matters of October 8, 2013 Open Meeting will be:

1. The Commission will hear oral argument in an appeal by China-Biotics, Inc. from the initial decision of an administrative law judge.

The law judge found that China-Biotics, Inc., an issuer with securities registered under Section 12 of the Securities Exchange Act of 1934, violated Exchange Act Section 13(a) and Rules 13a–1 and 13a–13 by failing to file timely periodic reports. The law judge found that the company failed to file a timely annual report for its fiscal year ended March 31, 2011 and failed to file timely subsequent quarterly reports. The law judge ordered that the registration of the company's securities be revoked.

The issues likely to be considered at oral argument include whether revocation is in the public interest.

2. The Commission will also hear oral argument in an appeal by Gordon Brent Pierce from an initial decision of an administrative law judge.

The law judge found that Pierce violated Sections 5(a) and 5(c) of the Securities Act of 1933 in connection with unregistered offerings and sales of stock of Lexington Resources, Inc. (''Lexington'') through accounts in the names of two offshore companies he controlled (the ''Corporate Accounts''). The law judge ordered Pierce to disgorge ill-gotten gains of $7,247,635.75, plus prejudgment interest.

The issues likely to be considered at oral argument include whether res judicata precluded the bringing of this proceeding (the ''Second Proceeding'') against Pierce, who was previously found to have traded unregistered shares of Lexington in a personal account; whether Pierce fraudulently concealed evidence that would have enabled the Division of Enforcement to include the charges of unregistered sales through the Corporate Accounts in the earlier proceeding, and if so, whether Pierce's fraudulent concealment allowed the Commission to initiate the Second Proceeding notwithstanding the res judicata doctrine; and whether disgorgement of trading proceeds from the Corporate Accounts is warranted under the circumstances.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matters of October 8, 2013 Closed Meeting will be:

Post argument discussions

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: October 1, 2013.

Elizabeth M. Murphy,

Secretary.

EDITORIAL NOTE: This document was received by the Office of the Federal Register on October 17, 2013.

[FR Doc. 2013–24582 Filed 10–17–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, October 3, 2013 at 10:30 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Adjudicatory matters; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: September 26, 2013.

Elizabeth M. Murphy,

Secretary.

EDITORIAL NOTE: This document was received by the Office of the Federal Register on October 17, 2013.

[FR Doc. 2013–24581 Filed 10–17–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, October 10, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: October 3, 2013.

Kevin M. O'Neill,

Deputy Secretary.

EDITORIAL NOTE: This document was received by the Office of the Federal Register on October 17, 2013.

[FR Doc. 2013–24583 Filed 10–17–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, October 17, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Adjudicatory matters; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: October 10, 2013.

Kevin M. O'Neill,

Deputy Secretary.

EDITORIAL NOTE: This document was received by the Office of the Federal Register on October 17, 2013.

[FR Doc. 2013–24584 Filed 10–17–13; 4:15 pm]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Board of Directors Meeting.

TIME AND DATE: The meeting will be held on October 31, 2013, from 12:00 Noon to 3:00 p.m., Eastern Daylight Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1–877–820–7831, passcode, 908048 to listen and participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: October 8, 2013.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2013–24716 Filed 10–17–13; 4:15 pm]

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Part II

Department of Commerce

Patent and Trademark Office

37 CFR Parts 1, 3 and 11

Changes To Implement the Patent Law Treaty; Final Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 3 and 11

[Docket No. PTO–P–2013–0007]

RIN 0651–AC85

Changes To Implement the Patent Law Treaty

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent Law Treaties Implementation Act of 2012 (PLTIA) amends the patent laws to implement the provisions of the Hague Agreement Concerning International Registration of Industrial Designs (Hague Agreement) in title I, and the Patent Law Treaty (PLT) in title II. The PLT harmonizes and streamlines formal procedures pertaining to the filing and processing of patent applications. This final rule revises the rules of practice for consistency with the changes in the PLT and title II of the PLTIA. The United States Patent and Trademark Office (Office) is implementing the Hague Agreement and title I of the PLTIA in a separate rulemaking. The notable changes in the PLT and title II of the PLTIA pertain to: The filing date requirements for a patent application; the restoration of patent rights via the revival of abandoned applications and acceptance of delayed maintenance fee payments; and the restoration of the right of priority to a foreign application or the benefit of a provisional application in a subsequent application filed within two months of the expiration of the twelve-month period (six-month period for design applications) for filing such a subsequent application. This final rule also revises the patent term adjustment provisions to provide for a reduction of any patent term adjustment if an application is not in condition for examination within eight months of its filing date or date of commencement of national stage in an international application, and contains miscellaneous changes pertaining to the supplemental examination, inventor's oath or declaration, and first inventor to file provisions of the Leahy-Smith America Invents Act (AIA).

DATES: *Effective date:* December 18, 2013.

Applicability date: The changes to 37 CFR 1.1, 1.4, 1.5, 1.6, 1.7, 1.17, 1.20, 1.23, 1.25, 1.29, 1.33, 1.51, 1.52, 1.54, 1.55(b) through (e) and (h), 1.57(b) through (i), 1.58, 1.72, 1.76(d)(2), (f) and (g), 1.78, 1.83, 1.85, 1.131, 1.136, 1.137, 1.138, 1.197, 1.290, 1.311, 1.366, 1.378, 1.452, 1.550, 1.809, 1.958, 3.11, 3.31, and 11.18, and the removal of 37 CFR 1.317, apply to any patent application filed before, on, or after December 18, 2013, to any patent resulting from an application filed before, on, or after December 18, 2013, and to any reexamination proceeding and any request for supplemental examination filed before, on, or after December 18, 2013. The changes to 37 CFR 1.16, 1.53(b) and (c), 1.57(a), 1.76(b)(3), and 1.81 apply only to patent applications filed under 35 U.S.C. 111 on or after December 18, 2013. The changes to 37 CFR 1.53(f) and 1.495 apply only to patent applications filed under 35 U.S.C. 111(a) or 363 on or after September 16, 2012. The changes to 37 CFR 1.55(f) and 37 CFR 1.704 apply only to patent applications filed under 35 U.S.C. 111 on or after December 18, 2013, and international patent applications in which the national stage commenced under 35 U.S.C. 371 on or after December 18, 2013.

FOR FURTHER INFORMATION CONTACT: Robert W. Bahr, Senior Patent Counsel, Office of Patent Examination Policy, at (571) 272–8090.

SUPPLEMENTARY INFORMATION: Executive Summary: *Purpose:* The PLT harmonizes and streamlines formal procedures pertaining to the filing and processing of patent applications. Title II of the PLTIA amends the patent laws to implement the provisions of the PLT. This final rule revises the rules of practice for consistency with the changes in the PLT and title II of the PLTIA.

Summary of Major Provisions: The major changes in the PLT and title II of the PLTIA pertain to: (1) The filing date requirements for a patent application; (2) the restoration of patent rights via the revival of abandoned applications and acceptance of delayed maintenance fee payments; and (3) the restoration of the right of priority to a foreign application or the benefit of a provisional application in a subsequent application filed within two months of the expiration of the twelve-month period (six-month period for design applications) for filing such a subsequent application. This final rule also revises the patent term adjustment provisions to provide for a reduction of any patent term adjustment if an application is not in condition for examination within eight months of its filing date or date of commencement of national stage in an international application.

The Office is specifically revising the rules of practice pertaining to the filing date requirements for a patent application to provide that a claim is not required for a nonprovisional application (other than for a design patent) to be entitled to a filing date (a claim has never been required for a provisional application to be entitled to a filing date). The Office is also providing for the filing of a nonprovisional application ''by reference'' to a previously filed application in lieu of filing the specification and drawings. An application filed either without at least one claim or ''by reference'' to a previously filed application in lieu of the specification and drawings will be treated in a manner analogous to the pre-existing provisions for treating an application that is missing application components not required for a filing date under 35 U.S.C. 111(a) (37 CFR 1.53(f)), in that the applicant will be given a period of time within which to supply a claim and/or claims or a copy of the specification and drawings of the previously filed application.

The Office is also revising the rules of practice pertaining to the revival of abandoned applications (37 CFR 1.137) and acceptance of delayed maintenance fee payments (37 CFR 1.378) to provide for the revival of abandoned applications and acceptance of delayed maintenance fee payments solely on the basis of ''unintentional'' delay. The PLTIA eliminates the provisions of the patent statutes relating to revival of abandoned applications or acceptance of delayed maintenance fee payments on the basis of a showing of ''unavoidable'' delay.

The Office is further revising the rules of practice pertaining to priority and benefit claims to provide for the restoration of the right of priority to a prior-filed foreign application and the restoration of the right to benefit of a prior-filed provisional application. The Office is providing with respect to the right of priority to a prior-filed foreign application that if the subsequent application is filed after the expiration of the twelve-month period (six-month period in the case of a design application) set forth in 35 U.S.C. 119(a), but within two months from the expiration of the twelve-month period (six-month period in the case of a design application), the right of priority in the subsequent application may be restored upon petition and payment of the applicable fee if the delay in filing the subsequent application within the twelve- or six-month period was unintentional. The Office is providing with respect to benefit of a prior-filed

provisional application that if the subsequent application is filed after the expiration of the twelve-month period set forth in 35 U.S.C. 119(e), but within two months from the expiration of the twelve-month period, the benefit of the provisional application may be restored upon petition and payment of the applicable fee if the delay in filing the subsequent application within the twelve-month period was unintentional.

Lastly, the Office is revising the patent term adjustment provisions to provide for a reduction of any patent term adjustment if an application is not in condition for examination within eight months of its filing date or date of commencement of national stage in an international application. The PLT and PLTIA provide applicants with additional opportunities to delay the examination process (*e.g.,* the ability to file an application without any claims and to file an application merely by reference to a previously filed application). This change to the patent term adjustment rules is to avoid the situation in which an applicant obtains patent term adjustment because the applicant takes advantage of the additional opportunities to delay the examination process provided by the PLT and PLTIA.

Costs and Benefits: This rulemaking is not economically significant under Executive Order 12866 (Sept. 30, 1993).

Background: The PLT was concluded on June 1, 2000, and entered into force on April 28, 2005. The PLT harmonizes and streamlines formal procedures pertaining to the filing and processing of patent applications. With the exception of the filing date requirements specified in PLT Article 5, the PLT specifies maximum form and content requirements that an Office that is a party to the PLT (a Contracting Party) may apply. A Contracting Party is free to provide for form and content requirements that are more permissive from the viewpoint of applicants and patent owners. The PLT does not apply to design, plant, provisional, or reissue applications. *See* PLT Art. 3 (the PLT applies to the types of applications that are permitted to be filed as international applications under the Patent Cooperation Treaty (PCT)). The PLT Articles and Regulations under the PLT are available on the World Intellectual Property Organization (WIPO) Internet Web site (*www.wipo.int*).

The United States Senate ratified the PLT on December 7, 2007. The PLT did not enter into force in the United States upon ratification in 2007 as the PLT is not a self-executing treaty. *See Patent Law Treaty and Regulations under Patent Law Treaty,* Executive Report 110–6 at 3–4 (2007). Legislation (title II of the PLTIA) to amend the provisions of title 35, United States Code, to implement the PLT was enacted on December 18, 2012. *See* Public Law 112–211, sections 201 through 203, 126 Stat. 1527, 1533–37 (2012). The changes in title II (sections 201 through 203) of the PLTIA are divided into three groups: (1) The changes pertaining to a patent application filing date; (2) the changes pertaining to the revival of abandoned applications and acceptance of delayed maintenance fee payments; and (3) the changes pertaining to the restoration of the right of priority to a foreign application or the benefit of a provisional application. *See id.* The major provisions of the PLT and title II of the PLTIA are as follows:

PLT Article 5 sets forth the requirements for obtaining a filing date. PLT Article 5(1) provides that a filing date will be accorded to an application upon compliance with three formal requirements: (1) An indication that the elements received by the Office are intended to be an application for a patent for an invention; (2) indications that would allow the Office to identify and to contact the applicant; and (3) a part which appears to be a description of the invention. No additional elements (such as a claim or a drawing) can be required for a filing date to be accorded to an application. Pre-PLTIA 35 U.S.C. 111(a) provides that the filing date of an application shall be the date on which ''the specification and any required drawing'' are received in the Office, and thus requires that an application contain a drawing where necessary for an understanding of the invention (35 U.S.C. 113(first sentence)) and at least one claim to be entitled to a filing date. *See Baxter Int'l, Inc.* v. *McGaw, Inc.,* 149 F.3d 1321, 1333 (Fed. Cir. 1998) (both statute and regulation make clear the requirement that a patent application must include, *inter alia,* a specification containing claims and a drawing, and the omission of any of these component parts makes a patent application incomplete and thus not entitled to a filing date). Section 201(a) of the PLTIA amends 35 U.S.C. 111(a) to provide that the filing date of an application (other than for a design patent) is the date on which a specification, ''with or without claims,'' is received in the Office. *See* 126 Stat. at 1533.

PLT Article 5(1)(b) permits a Contracting Party to accept a drawing as a description of the invention in appropriate circumstances. This is considered to be consistent with pre-existing jurisprudence in the United States and thus no change in that regard is necessary. *See Vas-Cath Inc.* v. *Mahurkar,* 935 F.2d 1555, 1565 (Fed. Cir. 1991) (''under proper circumstances, drawings alone may provide a 'written description' of an invention as required by [35 U.S.C.] 112'').

PLT Article 5 and PLTIA 35 U.S.C. 111(a) specify the formal requirements necessary for an application to be entitled to a filing date, and compliance with these requirements ensures only that the disclosure present upon filing in the application will be entitled to a filing date. An application whose disclosure satisfies only the requirements of 35 U.S.C. 111(a) to be entitled to a filing date may nonetheless not meet the requirements of 35 U.S.C. 112 and 113 necessary for the applicant to be entitled to a patent for any claimed invention presented in the application, or even for the application to effectively serve as a priority or benefit application for an application subsequently filed in the United States or abroad. Therefore, the ability to file an application without a claim or drawing should be viewed as a safeguard against the loss of a filing date due to a technicality and not as a best practice.

PLT Article 5(2) permits the description of the invention to be filed in any language.

As discussed previously, the filing date requirements in PLT Article 5 are not simply the maximum requirements but instead constitute the absolute minimum and maximum requirements for an application to be accorded a filing date. *See* PLT Art. 2(1).

Finally, as discussed previously, the PLT does not apply to design applications. Section 202(a) of the PLTIA amends 35 U.S.C. 171 to provide that the filing date of an application for design patent shall be the date on which the specification as prescribed by 35 U.S.C. 112 and any required drawings are filed. *See* 126 Stat. at 1535. Therefore, a design application must contain a claim and any required drawings to be entitled to a filing date.

35 U.S.C. 111(a) as in effect prior to the PLTIA provides that the fee and oath or declaration may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director, and that upon failure to submit the fee and oath or declaration within such prescribed period, the application shall be regarded as abandoned. *See* 35 U.S.C. 111(a)(3) and (a)(4). Section 201(a) of the PLTIA amends 35 U.S.C. 111(a)(3) and (a)(4) to provide that the fee, oath or declaration, and claim or claims may be submitted after the filing date of the

application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Office, and that upon failure to submit the fee, oath or declaration, and claim or claims within the period prescribed by the Office, the application shall be regarded as abandoned. *See* 126 Stat. at 1533.

Section 201(a) of the PLTIA further amends 35 U.S.C. 111 to: (1) More closely align the corresponding provisions for nonprovisional applications in 35 U.S.C. 111(a) and provisional applications in 35 U.S.C. 111(b); (2) more clearly distinguish the filing date requirements in those sections from the more substantive requirements of 35 U.S.C. 112 and 113; and (3) delete the reference to the ''unavoidable or unintentional'' standard in favor of an ''unintentional'' standard in new 35 U.S.C. 27. *See id.*

PLT Article 5(6) pertains to applications containing a missing part of the description or a missing drawing. PLT Article 5(6)(a) provides that if the missing part of the description or a missing drawing is timely filed, the filing date of the application shall be the date on which the Office has received that part of the description or that drawing. PLT Article 5(6)(c) provides that if the missing part of the description or the missing drawing is timely withdrawn by the applicant, the filing date of the application shall be the date on which the applicant complied with requirements provided for in PLT Article 5(1) and (2). PLT Article 5(6)(b) provides that where (i) a prior-filed application contains the missing part of the description and/or missing drawing, (ii) the application as filed claims the priority to the prior-filed application, and (iii) the applicant timely files a copy of the prior-filed application (and translation if necessary), the filing date of the application (including the missing part of the description and/or missing drawing) shall be the date on which the applicant complied with requirements provided for in PLT Article 5(1) and (2). The Office's procedures concerning the handling of applications containing a missing part of the description or a missing drawing are set forth in sections 601.01(d) (applications filed without all pages of the specification) and 601.01(g) (applications filed without all figures of drawings) of the *Manual of Patent Examining Procedure* (8th ed. 2001) (Rev. 9, Aug. 2012) (MPEP).

PLT Article 5(7) provides that a reference to a previously filed application, made upon the filing of the application, shall replace the description and any drawings of the application for purposes of the filing date of the application. PLT Rule 2(5) requires that this reference to the previously filed application indicate that, for the purposes of the filing date, the description and any drawings of the application are replaced by the reference to the previously filed application, and also indicate the application number and the office (intellectual property authority or country) where the previously filed application was filed. PLT Rule 2(5) further provides that a Contracting Party may require that: (1) A copy of the previously filed application and a translation of the previously filed application (if not in a language accepted by the Office) be filed with the Office within a time limit of not less than two months from the date on which the application containing the reference was received by the Office; and (2) a certified copy of the previously filed application be filed with the Office within a time limit of not less than four months from the date on which the application containing the reference was received by the Office.

Section 201(a) of the PLTIA amends 35 U.S.C. 111 to provide for this reference filing in a new 35 U.S.C. 111(c). New 35 U.S.C. 111(c) provides that a reference made upon the filing of an application to a previously filed application shall, as prescribed by the Office, constitute the specification and any drawings of the subsequent application for purposes of a filing date. *See* 126 Stat. at 1533–34. New 35 U.S.C. 111(c) specifically provides that the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under 35 U.S.C. 111(a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. *See* 126 Stat. at 1533. New 35 U.S.C. 111(c) further provides that a copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director, and that a failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded as abandoned. *See* 126 Stat. at 1533–34. New 35 U.S.C. 111(c) finally provides that such an abandoned application shall be treated as having never been filed, unless: (1) The application is revived under 35 U.S.C. 27; and (2) a copy of the specification and any drawings of the previously filed application are submitted to the Director. *See* 126 Stat. at 1534.

PLT Article 6 standardizes application format requirements by providing that a Contracting Party may not impose form or content requirements different from or in addition to the form and content requirements provided for in the PCT, or permitted by the PCT for international applications during national processing or examination, or as prescribed in the PLT Regulations. The United States has taken a reservation with respect to PLT Article 6, in that PLT Article 6(1) shall not apply to any requirement relating to unity of invention applicable under the PCT to an international application. *See Patent Law Treaty and Regulations under Patent Law Treaty,* Executive Report 110–6 at 6. The Office appreciates that patent stakeholders prefer that the Office move from the ''independent and distinct'' restriction standard of 35 U.S.C. 121 to the ''unity of invention'' standard of PCT Rule 13. The Office is in the process of studying the changes to the patent statute, regulations, examination practices, and filing fees that would be necessary to move from the ''independent and distinct'' restriction standard of 35 U.S.C. 121 to the ''unity of invention'' standard of PCT Rule 13 in a practical manner.

The PLT further provides for the establishment of standardized Model International Forms, which will have to be accepted by all Contracting Parties. The following Model International Forms have been established under the PLT: (1) Model International Request Form; (2) Model International Power of Attorney Form; (3) Model International Request for Recordation of Change in Name or Address Form; (4) Model International Request for Correction of Mistakes Form; (5) Model International Request for Recordation of Change in Applicant or Owner Form; (6) Model International Certificate of Transfer Form; (7) Model International Request for Recordation of a License/Cancellation of the Recordation of a License Form; and (8) Model International Request for Recordation of a Security Interest/Cancellation of the Recordation of a Security Interest Form.

PLT Articles 6, 7, and 8 provide for simplified procedures, such as exceptions from mandatory representation for certain actions, restrictions on requiring evidence on a systematic basis, permitting a single

communication for more than one application or patent from the same person in certain situations (*e.g.,* powers of attorney), and restrictions on the requirement to submit a copy and any necessary translation of an earlier application.

PLT Rule 7(2)(b) specifically provides that a single power of attorney is sufficient even where it relates to more than one application or patent of the same person, and also that a power of attorney will be sufficient where it relates to future applications of such person. PLT Rule 7(2)(b) permits the Office to require a separate copy of the power of attorney be filed in each application and patent to which it relates. The Office permits a single power of attorney for multiple applications or patents of the same person, but requires a separate copy of the power of attorney be filed in each application or patent to which it relates. *See* 37 CFR 1.4(b). A person may give a power of attorney that is not specific to an application or patent, similar to the General Power of Attorney used in PCT practice (general power of attorney), and a practitioner having authority from such person may submit a copy of the general power of attorney in any application or patent of that person.

PLT Articles 11, 12, and 13 provide procedures to avoid the loss of substantive rights as a result of an unintentional failure to comply with formality requirements or time periods.

PLT Article 11 requires a Contracting Party to provide for either extensions of time (or an alternative to reinstate the applicant's or owner's rights) for time limits fixed by the Contracting Party. The PLT distinguishes between time limits fixed by applicable law and time limits fixed by the Contracting Party. A time limit is fixed by applicable law when the time limit is provided for in a statute (*e.g.,* the three-month period in 35 U.S.C. 151) or regulation (*e.g.,* the three-month period in 37 CFR 1.85(c)). A time limit is fixed by the Contracting Party when the applicable statute or regulation provides for a time period to be set, but does not specify the time limit itself (*e.g.,* 35 U.S.C. 133, 37 CFR 1.53(f)(1), or 37 CFR 1.134). While many time limits fixed by regulation are extendable (*e.g.,* 37 CFR 1.53(f)(1), and 1.137(e)), PLT Article 11 applies only to time limits that are not fixed by statute or regulation. The PLT also provides that extensions of time under PLT Article 11(1) must not be for less than two months from the date of the expiration of the unextended time period (PLT Rule 12(2)(a)).

PLT Article 12 provides for reinstatement of rights on the basis of unintentional delay (or alternatively if the failure occurred in spite of due care). Section 201(b) of the PLTIA adds a new section 27 to title 35. New 35 U.S.C. 27 provides that the Director may establish procedures to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner. *See* 126 Stat. at 1534. As discussed previously, the PLTIA eliminates the provisions of the patent statutes relating to revival or acceptance of delayed maintenance fee payments on the basis of a showing of ''unavoidable'' delay. Thus, the PLTIA provides a single standard (unintentional delay) for reviving abandoned applications, accepting delayed issue fee and maintenance fee payments, and accepting delayed responses by the patent owner in a reexamination proceeding.

Section 202(b)(1)(A) of the PLTIA amends 35 U.S.C. 41(a)(7) to provide that the Office shall charge $1,700.00 on filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the twelve-month period for filing a subsequent application. *See* 126 Stat. at 1535.

Section 202(b)(1)(A) of the PLTIA also amends 35 U.S.C. 41(a)(7) to provide that the Director may refund any part of this fee in exceptional circumstances as determined by the Director. *See id.* The Office has a practice of waiving surcharges not required by statute in situations in which the failure to take the required action or pay the required fee was due to a widespread disaster, such as a hurricane, earthquake, or flood. *See, e.g., Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by Hurricane Sandy,* 1385 *Off. Gaz. Pat. Office* 162 (Dec. 18, 2012), *Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Severe Earthquakes in Northern Italy,* 1381 *Off. Gaz. Pat. Office* 213 (Aug. 21, 2012), *Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Flooding in Thailand,* 1375 *Off. Gaz. Pat. Office* 188 (Feb. 21, 2012), *Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011, in Japan,* 1365 *Off. Gaz. Pat. Office* 170 (Apr. 19, 2011), and *Petitions to Accept a Delayed Patent Maintenance Fee Payment where Non-Payment was due to the Effects of Hurricane Katrina,* 1299 *Off. Gaz. Pat. Office* 20 (Oct. 4, 2005). This provision of PLTIA 35 U.S.C. 41(a)(7) permits the Office to refund (or waive) the fee specified in 35 U.S.C. 41(a)(7) in situations in which the failure to take the required action or pay the required fee was due to a widespread disaster, such as a hurricane, earthquake, or flood, in the manner that the Office would waive surcharges that are not required by statute.

Section 202(b)(1)(B) of the PLTIA also amends 35 U.S.C. 41(c)(1) to conform procedures for the late payment of maintenance fees with those provided in new 35 U.S.C. 27. Section 202(b)(1)(B) of the PLTIA specifically amends 35 U.S.C. 41(c)(1) to delete the twenty-four month time limit for unintentionally delayed maintenance fee payments and the reference to an unavoidable standard. PLTIA 35 U.S.C. 41(c)(1) provides that: (1) The Director may accept the payment of any maintenance fee required by 35 U.S.C. 41(b) after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional; (2) the Director may require the payment of the fee specified in 35 U.S.C. 41(a)(7) as a condition of accepting payment of any maintenance fee after the six-month grace period; and (3) if the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period (subject to the pre-existing intervening rights provision of 35 U.S.C. 41(c)(2)). *See* 126 Stat. at 1535–36.

Section 202(b) of the PLTIA also amends 35 U.S.C. 122(b)(2)(B)(iii), 133, 151, 364(b), and 371(d) to delete the reference to an unavoidable standard in light of new 35 U.S.C. 27. *See* 126 Stat. at 1536.

Section 202(b)(6) of the PLTIA amends 35 U.S.C. 151 to provide that: (1) If it appears that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant; (2) the notice of allowance shall specify a sum, constituting the issue fee and any

required publication fee, which shall be paid within three months thereafter; and (3) upon payment of this sum, the patent may issue, but if payment is not timely made, the application shall be regarded as abandoned. *See id.* Under former 35 U.S.C. 151: (1) The Office issues a notice of allowance if it appears that applicant is entitled to a patent under the law; (2) the notice of allowance specifies a sum, which constitutes the issue fee or a portion thereof; (3) the sum specified in the notice of allowance must be paid within three months; (4) the patent shall issue if the sum specified in the notice of allowance is timely paid, but the application is abandoned if the sum specified in the notice of allowance is not timely paid; (5) any remaining balance of the issue fee must be paid within three months from the mailing of a notice that the balance of the issue fee is due; and (6) the patent shall lapse if any remaining balance of the issue fee is not paid within three months from the mailing of a notice that the balance of the issue fee is due. *See In re Mill,* 12 USPQ2d 1847 (1989) (discussing the practice prescribed in 35 U.S.C. 151 for obtaining the balance of the issue fee due in an application in which the sum specified in the notice of allowance is timely paid). The PLTIA amends 35 U.S.C. 151 to provide that the sum specified by the notice of allowance constitutes the issue fee and any required publication fee (rather than the issue fee or a portion thereof), and eliminates the provisions (the third and fourth paragraphs of former 35 U.S.C. 151) pertaining to the lapsed patent practice.

The lapsed patent provisions of former 35 U.S.C. 151 were relevant when the issue fee was revised after a notice of allowance is issued but before the issue fee is paid. Under former 35 U.S.C. 151: (1) If the fee specified in the notice of allowance was timely paid, the Office would issue a notice that any balance of the issue fee is due and give the applicant three months to pay the balance of the issue fee; and (2) if the balance of the issue fee was not paid within this three-month period, then the patent would lapse. *See Mill,* 12 USPQ2d at 1848. Under the changes to 35 U.S.C. 151 in the PLTIA, the sum specified in the notice of allowance will constitute the issue fee and any required publication fee, and the Office will proceed to issue a patent when the applicant pays the sum specified in the notice of allowance, regardless of the issue fee and/or publication fee in effect on the date the sum specified in the notice of allowance is paid.

The Office published a final rule in March of 2013, setting and adjusting patent fees under section 10 of the AIA. *See Setting and Adjusting Patent Fees,* 78 FR 4212 (Jan. 18, 2013) (fee setting final rule). The fee setting final rule reduces issue fees and publication fees paid on or after January 1, 2014. *See Setting and Adjusting Patent Fees,* 78 FR at 4235–36, 4286–87. To allow applicants whose notice of allowance is mailed between October 1, 2013, and December 31, 2013, to take advantage of the reduced issue and publication fee, any notice of allowance mailed between October 1, 2013, and December 31, 2013, will indicate that the issue and publication fee due is the lower of: (1) The issue fee plus publication fee in effect on the date the notice of allowance is mailed; or (2) the issue and publication fee in effect on the date the issue and publication fee is paid. Thus, the sum specified in a notice of allowance mailed between October 1, 2013, and December 31, 2013, will be the issue fee in effect on January 1, 2014, for applicants who receive a notice of allowance before January 1, 2014, but who pay the issue fee on or after January 1, 2014.

PLT Article 13 provides for the restoration of the right of priority where there is a failure to timely claim priority to the prior application, and also where there is a failure to file the subsequent application within twelve months of the filing date of the priority application. Section 201(c) of the PLTIA amends 35 U.S.C. 119 to provide that the twelve-month periods set forth in 35 U.S.C. 119(a) and (e) may be extended by an additional two months if the delay in filing an application claiming priority to a foreign application or the benefit of a provisional application within that twelve-month period was unintentional. Section 201(c) of the PLTIA also amends 35 U.S.C. 119(a) and 365(b) to provide for unintentionally delayed claims for priority under the PCT and the Regulations under the PCT, and priority claims to an application not filed within the priority period specified in the PCT and the Regulations under the PCT but filed within the additional two-month period.

Section 201(c) of the PLTIA specifically amends 35 U.S.C. 119(a) by adding that the Director may prescribe regulations, including the requirement for payment of the fee specified in 35 U.S.C. 41(a)(7), pursuant to which the twelve-month period set forth in 35 U.S.C. 119(a) may be extended by an additional two months if the delay in filing the application in the United States within the twelve-month period was unintentional. *See* 126 Stat. at 1534.

Section 201(c) of the PLTIA specifically amends 35 U.S.C. 119(e)(1) by adding that the Director may prescribe regulations, including the requirement for payment of the fee specified in 35 U.S.C. 41(a)(7), pursuant to which the twelve-month period set forth in 35 U.S.C. 119(e) may be extended by an additional two months if the delay in filing the application under 35 U.S.C. 111(a) or 363 within the twelve-month period was unintentional. *See id.*

Section 201(c) of the PLTIA amends 35 U.S.C. 119(e)(3) by adding that for a patent application filed under 35 U.S.C. 363 in a Receiving Office other than the United States Patent and Trademark Office, the twelve-month and additional two-month period set forth in 35 U.S.C. 119(e) shall be extended as provided under the PCT and PCT Regulations. *See* 126 Stat. at 1534–35.

Section 201(c) of the PLTIA amends 35 U.S.C. 365(b) by adding that the Director may establish procedures, including the requirement for payment of the fee specified in 35 U.S.C. 41(a)(7), to accept an unintentionally delayed claim for priority under the PCT and PCT Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the PCT and PCT Regulations, but was filed within the additional two-month period specified under 35 U.S.C. 119(a) or the PCT or PCT Regulations. *See* 126 Stat. at 1535.

Sections 201(c) and 202(b)(2) and (b)(3) of the PLTIA amend 35 U.S.C. 119(b), 119(e), and 120 to change the phrase ''including the payment of a surcharge'' in the provision pertaining to the submission of delayed priority or benefit claims to ''including the requirement for payment of the fee specified in [35 U.S.C.] 41(a)(7).'' *See* 126 Stat. at 1534 and 1536.

PLT Article 14 and PLT Rules 15, 16, and 17 pertain to requests for a change in the applicant's or owner's name or address, requests for a change in the applicant or owner (*e.g.,* due to an assignment), requests for recordation of a license or a security interest, and requests for correction of a mistake.

35 U.S.C. 261 as in effect prior to the PLTIA provides that: ''Subject to the provisions of this title, patents shall have the attributes of personal property.'' Section 201(d) of the PLTIA amends 35 U.S.C. 261, first paragraph, by adding: ''[t]he [United States] Patent and Trademark Office shall maintain a register of interests in applications for patents and patents and shall record any document related thereto upon request, and may require a fee therefor.'' *See* 126

Stat. at 1535. Section 201(d) of the PLTIA also amends 35 U.S.C. 261, fourth paragraph, to read as follows: ''An interest that constitutes an assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the [United States] Patent and Trademark Office within three months from its date or prior to the date of such subsequent purchase or mortgage.'' *See id.*

PLT Rule 15(3)(b) provides that a single request for recordation of a change in the name and/or address of the applicant or owner is sufficient even where it relates to more than one application or patent of the same person, but also permits the Office to require a separate copy of the request for each application and patent to which it relates. PLT Rules 16(5) and 17(5) provide that a single request for recordation of a change in the applicant or owner and a single request for recordation of a license or security interest is sufficient even where it relates to more than one application or patent of the same person, but also permits the Office to require a separate copy of the request for each application and patent to which it relates. The Office will permit a single request for recordation of a change in the name and/or address of the applicant or owner, single request for recordation of a change in the applicant or owner, and a single request for recordation of a license or security interest for multiple applications or patents of the same person, but will require a separate copy of such a request for each application and patent to which it relates. *See* 37 CFR 1.4(b).

PLT Rule 18(3) provides that a single request for correction of a mistake is sufficient even where it relates to more than one application or patent of the same person, provided that the mistake and correction are common to all applications or patents concerned, but also permits the Office to require a separate copy of the request for each application and patent to which it relates. The Office will permit a single request for correction of a mistake to more than one application or patent of the same person, provided that the mistake and correction are common to all applications or patents concerned, but will require a separate copy of such a request for each application and patent to which it relates. *See* 37 CFR 1.4(b).

The PLT also provides for a minimum two-month time period for replies to notifications concerning noncompliance pertaining to: (1) Filing date issues or omitted drawings or pages of specification (PLT Rule 2(1)); (2) the form or content of an application (PLT Rule 6(1)); (3) the appointment of a representative (PLT Rule 7(5)); (4) the formal requirements for communications from the applicant or patent owner (PLT Rule 11(1)); (5) requests for recordation of a change in name or address (PLT Rule 15(6); (6) requests for recordation of a change in the applicant or patent owner (PLT Rule 16(8)); (7) requests for recordation of a license or a security interest (PLT Rule 17(8)); and (8) requests for correction of a mistake (PLT Rule 18(6)).

The Office has and may continue to develop certain pilot programs that are not encompassed by the PLT. These pilot programs will continue to set time periods of less than two months in certain situations as necessary to avoid delays and permit the timely evaluation of the effectiveness of the program.

The first is the pre-appeal brief conference program. The Notice of Panel Decision from Pre-Appeal Brief Review will continue to set a time period of one month from the mailing of the Notice of Panel Decision from Pre-Appeal Brief Review, or the balance of the two-month time period running from the notice of appeal, whichever is longer, to file an appeal brief in order to avoid dismissal of the appeal if the result of the pre-appeal brief review is that the applicant must proceed to the Patent Trial and Appeal Board. The Notice of Non-Compliant Pre-Appeal Brief Request for Review will continue to set a time period of one month from the mailing of the Notice of Non-Compliant Pre-Appeal Brief Request for Review, or the balance of the two-month time period running from the notice of appeal, whichever is longer, to file an appeal brief in order to avoid dismissal of the appeal.

The second is the pre-first Office action on the merits interview program. The Notice of Non-Compliant First Action Interview Request will continue to set a non-extendable time period of one month or thirty days, whichever is longer, for an applicant to correct the deficiencies to avoid the application being removed from the Full First Office Action Interview Pilot Program and examined in regular course. The First Action Interview Pilot Program Pre-Interview Communication will continue to set a time period of one month or thirty days, whichever is longer (extendable by only one month) for an applicant to schedule an interview and submit a proposed amendment or arguments to avoid the application being removed from the Full First Office Action Interview Pilot Program and examined in regular course. However, the Office is revising the Full First Action Interview program to provide that the First Action Interview Office Action Summary will set a time period of two months (extendable by two months) in order for an applicant to reply to the Office action.

The Office is revising the Accelerated Examination program in view of the PLT. The Office adopted an Accelerated Examination program in 2006, which provided for Office actions setting a one-month non-extendable time period for replies. *See Changes to Practice for Petitions in Patent Applications To Make Special and for Accelerated Examination,* 71 FR 36323, 36325 (June 25, 2006); *see also* MPEP 708.02(a). The Office is revising the Accelerated Examination program to provide that Office actions (other than a notice of allowance) will set a shortened statutory period for reply of at least two months. In addition, extensions of this shortened statutory period under 37 CFR 1.136(a) will be permitted, but filing a petition for an extension of time will result in the application being taken out of the Accelerated Examination program, in the same manner as filing a petition for an extension of time will result in the application being taken out of the Prioritized Examination program. *Cf. Changes To Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures Under the Leahy-Smith America Invents Act,* 76 FR 59050, 59051 (Sept. 23, 2011).

Section 203(a) provides that the amendments made by title II of the PLTIA take effect on December 18, 2013 (the date that is one year after the date of the enactment of the PLTIA) and apply to: (1) Any patent issued before, on, or after December 18, 2013; and (2) any application for patent that is pending on or filed after December 18, 2013. *See* 126 Stat. at 1536. Section 203(b) provides that the amendments to 35 U.S.C. 111 made by title II of the PLTIA apply only to applications that are filed on or after December 18, 2013. Section 203(b) also provides that the amendments made by title II of the PLTIA shall have no effect with respect to any patent that is the subject of litigation in an action commenced before December 18, 2013. *See* 126 Stat. at 1537.

As discussed previously, the PLT does not apply to design, plant, provisional, or reissue applications. The changes in the PLTIA and this final rule to implement the PLT, however, are applicable to design, plant, provisional, and reissue applications, except that PLTIA 35 U.S.C. 171 and 37 CFR 1.53(b)

as adopted in this final rule require that a design application contain a claim and any required drawings to be entitled to a filing date.

The PLT itself will enter into force for the United States three months after the date on which the United States deposits its instrument of ratification with the Director General of WIPO or on a later date indicated in the U.S. instrument (but no later than six months after the date the instrument is deposited). *See* PLT Art. 21(2)(ii) and *Patent Law Treaty and Regulations under Patent Law Treaty,* Executive Report 110–6 at 3. The Office plans to modify its procedures not covered by title II of the PLTIA for consistency with the PLT and PLT Regulations no later than December 18, 2013. However, the changes to Office practices do not affect the requirements for replies to Office notices and actions issued prior to December 18, 2013. *See* PLT Art. 22(2) (a Contracting Party is not obliged to apply PLT provisions to procedures commenced before the date on which the PLT binds the Contracting Party under PLT Article 21).

The Office revised the rules of practice to implement the supplemental examination provisions of the AIA in August of 2012. *See Changes to Implement the Supplemental Examination Provisions of the Leahy-Smith America Invents Act and to Revise Reexamination Fees,* 77 FR 48828 (Aug. 14, 2012). This final rule also adds references to supplemental examination in the filing, correspondence, deposit account, and paper and compact disc quality and format provisions of the rules of practice. The Office is specifically revising these provisions to indicate that the provisions pertaining to *ex parte* reexamination proceedings are also applicable in supplemental examination proceedings. *See Changes to Implement the Supplemental Examination Provisions of the Leahy-Smith America Invents Act and to Revise Reexamination Fees,* 77 FR at 48830 (adopting *ex parte* reexamination content requirements for supplemental examination proceedings).

Discussion of Specific Rules

The following is a discussion of amendments to Title 37 of the Code of Federal Regulations, Parts 1, 3, and 11.

Section 1.1: Section 1.1(c) is amended to provide that: (1) Requests for supplemental examination (original and corrected request papers), and any other papers filed in a supplemental examination proceeding, should be additionally marked ''Mail Stop Supplemental Examination;'' (2) any papers filed in a reexamination proceeding ordered as a result of a supplemental reexamination proceeding, other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 102.4, should be additionally marked ''Mail Stop Ex Parte Reexam.''

Section 1.4: Section 1.4(a)(2) is amended to add a reference to supplemental examination proceedings in subpart E of 37 CFR part 1 (§§ 1.601 to 1.625).

Section 1.4(c) is amended to provide that subjects provided for on a single Office or WIPO form may be contained in a single paper. This provision is to clarify that subjects that are provided for on a single Office or WIPO form are not considered separate subjects for purposes of § 1.4(c) (which thus must be contained in separate papers).

Section 1.4(d) is amended to implement the signature provisions of PLT Rule 9(4) concerning electronic communications. PLT Rule 9(4) provides that where an Office permits the filing of communications in electronic form or by electronic means of transmittal, it shall consider such a communication signed if a graphic representation of a signature accepted by that Office appears on that communication as received by the Office. Section 1.4(d) is specifically amended to provide that correspondence permitted via the Office electronic filing system may be signed by a graphic representation of a handwritten signature as provided for in § 1.4(d)(1) or a graphic representation of an S-signature as provided for in § 1.4(d)(2) when it is submitted via the Office electronic filing system. Section 1.4(d) is also amended to provide for S-signatures in supplemental examination proceedings, simplify the organization of the provisions in § 1.4(d)(4) pertaining to certifications, and locate the provisions pertaining to forms in § 1.4(d)(5).

Section 1.5: Section 1.5(d) is amended to provide for letters relating to supplemental examination proceedings.

Section 1.6: Section 1.6(d) is amended to provide for correspondence in supplemental examination proceedings in a like manner to correspondence in *ex parte* reexamination proceedings. Section 1.6(d) is specifically amended to provide that a request for supplemental examination (as with a request for *ex parte* reexamination) may not be filed by facsimile, and that the control number of the proceeding should be entered on the cover sheet of any papers filed in a supplemental examination proceeding (as with papers filed in an *ex parte* reexamination proceeding).

Section 1.7: Section 1.7(a) is amended to refer to § 90.3 rather than former § 1.304 for time for appeal or for commencing civil action. The judicial review provisions of §§ 1.302 through 1.304 were replaced by 37 CFR part 90 in September of 2012. *See Rules of Practice for Trials Before the Patent Trial and Appeal Board and Judicial Review of Patent Trial and Appeal Board Decisions,* 77 FR 48612, 48625–26, 48677–78 (Aug. 14, 2012) (final rule).

Section 1.16: Section 1.16(f) is amended to provide that it is also applicable to filing a nonprovisional application that does not contain at least one claim on the filing date of the application as well as to filing a nonprovisional application filed by reference to a previously filed application under § 1.57(a). *See* discussion of §§ 1.53 and 1.57. Section 1.16(f) provides that the surcharge is applicable to filing the basic filing fee, search fee, examination fee, or inventor's oath or declaration on a date later than the filing date of the application, an application that does not contain at least one claim on the filing date of the application, or an application filed by reference to a previously filed application under § 1.57(a), except provisional applications.

Section 1.17: Sections 1.17(f) and (g) are amended for consistency with the changes to § 1.57. *See* discussion of § 1.57. Section 1.17(f) is also amended to add the phrase ''in an application for patent'' in the references to §§ 1.182 and 1.183 to clarify that the fee specified in § 1.17(f) is not applicable in reexamination proceedings. The fee for filing a petition in a reexamination proceeding (except for those specifically enumerated in §§ 1.550(i) and 1.937(d)) is set forth in § 1.20(c)(6). *See Changes to Implement the Supplemental Examination Provisions of the Leahy-Smith America Invents Act and to Revise Reexamination Fees,* 77 FR at 48832 and 48851.

Section 1.17(m) is amended to implement the change to 35 U.S.C. 41(a)(7), 41(c)(1), 119, 120, and 365 in section 202(b) of the PLTIA. Section 202(b)(1)(A) of the PLTIA amends 35 U.S.C. 41(a)(7) to provide that the Office shall charge $1,700.00 ($850.00 small entity) on filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or

benefit claim, or for the extension of the twelve-month period for filing a subsequent application. Sections 202(b)(1)(B), 202(b)(2), and 202(b)(3) of the PLTIA amend 35 U.S.C. 41(c)(1), 119, and 120 to replace ''payment of a surcharge'' with ''payment of the fee specified in section 41(a)(7).'' Section 1.17(m) as adopted in this final rule does not include a micro entity fee amount as this fee is set under 35 U.S.C. 41(a)(7) as amended by 202(b)(1)(A) of the PLTIA and not section 10(a) of the AIA. Section 10(b) of the AIA provides that the micro entity discount applies to fees set under section 10(a) of the AIA. *See* Public Law 112–29, 125 Stat. 284, 316–17 (2011). The fee specified in § 1.17(m) will have a micro entity amount when patent fees are again set under section 10(a) of the AIA.

Section 1.17(p) is amended, and § 1.17(o) is added, to provide for information disclosure statements under § 1.97(c) or (d) in § 1.17(p) and for third-party submissions under § 1.290 in § 1.17(o). Section 1.17(p) formerly provided for both information disclosure statements under § 1.97(c) or (d) and third-party submissions under § 1.290, which could have caused confusion as a third party is not eligible for the micro entity discount. Thus, § 1.17(p) as adopted in this final rule provides for information disclosure statements under § 1.97(c) or (d) and includes both a small entity and micro entity discount, and § 1.17(o) as adopted in this final rule provides for third-party submissions under § 1.290 and includes only a small entity discount.

Sections 1.17(l) and 1.17(t) are removed in view of the change to 35 U.S.C. 41(a)(7), 119, and 120 in section 202(b) of the PLTIA.

Section 1.20: Section 1.20(i) is removed in view of the change to 35 U.S.C. 41(a)(7) and 41(c)(1) in section 202(b)(1) of the PLTIA.

Section 1.23: Section 1.23(c) is added to provide that a fee transmittal letter may be signed by a juristic applicant or patent owner. PLT Article 7(2) provides that an assignee of an application, an applicant, owner, or other interested person may act *pro se* before the Office for the mere payment of a fee.

Section 1.25: Section 1.25(b) is amended to provide for deposit account charge authorizations in supplemental examination proceedings in a like manner to deposit account charge authorizations in *ex parte* reexamination proceedings. Section 1.25(b) is specifically amended to provide that an authorization to charge a deposit account the fee for a request for supplemental examination pursuant to § 1.610 and any other fees required in a supplemental examination proceeding in a patent may also be filed with the request for supplemental examination.

Section 1.29: Section 1.29(e) is amended to provide that a micro entity certification in an international application filed in a Receiving Office other than the United States Receiving Office may be signed by a person authorized to represent the applicant under § 1.455.

Section 1.29(k)(4) is amended to delete ''but payment of a deficiency based upon the difference between the current fee amount for a small entity and the amount of the previous erroneous micro entity fee payment will not be treated as an assertion of small entity status under § 1.27(c)'' and ''[o]nce a deficiency payment is submitted under this paragraph, a written assertion of small entity status under § 1.27(c)(1) is required to obtain small entity status.'' This change to § 1.29(k)(4) is for consistency with the provision of § 1.29(i) that a notification of loss of micro entity status is not automatically treated as a notification of loss of small entity status.

Section 1.33: Section 1.33(c) is amended to provide for correspondence to and from the patent owner in supplemental examination proceedings in a like manner to correspondence to and from the patent owner in *ex parte* reexamination proceedings. Section 1.33(c) is specifically amended to provide that all notices, official letters, and other communications for the patent owner in a supplemental examination proceeding will be directed to the correspondence address in the patent file, and that papers filed in a supplemental examination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34.

Section 1.51: Section 1.51(a) is amended to provide that an application transmittal letter limited to the transmittal of the documents and fees comprising a patent application under this section may be signed by a juristic applicant or patent owner. PLT Article 7(2) provides that an assignee of an application, an applicant, owner, or other interested person may act *pro se* before the Office for the filing of an application for the purposes of the filing date.

Section 1.52: Section 1.52(a)(1), (b)(2), (b)(4), (b)(5), and (b)(6) are amended to provide for paper quality and format requirements in supplemental examination proceedings in a like manner to paper quality and format requirements in *ex parte* reexamination proceedings.

Section 1.52(e) is amended to provide for compact disc quality and format requirements in supplemental examination proceedings in a like manner to compact disc quality and format requirements in *ex parte* reexamination proceedings.

Section 1.53: Section 1.53 is amended to implement the changes to 35 U.S.C. 111 in section 201 of the PLTIA and the change to 35 U.S.C. 171 in section 202(a) of the PLTIA.

Section 201(a) of the PLTIA amends 35 U.S.C. 111(a) to provide that the filing date of an application (other than for a design patent) is the date on which a specification, ''with or without claims,'' is received in the Office. Section 1.53(b) as adopted in this final rule thus provides that the filing date of an application for patent filed under § 1.53, except for an application for a design patent or a provisional application under § 1.53(c), is the date on which a specification, with or without claims, is received in the Office.

Section 202(a) of the PLTIA amends 35 U.S.C. 171 to provide that the filing date of an application for design patent shall be the date on which the specification as prescribed by 35 U.S.C. 112 and any required drawings are filed. Therefore, a design application must contain a claim to be entitled to a filing date. Section 1.53(b) as adopted in this final rule thus provides that the filing date of an application for a design patent filed under this section, except for a continued prosecution application under § 1.53(d), is the date on which the specification as prescribed by 35 U.S.C. 112, including at least one claim, and any required drawings are received in the Office.

Section 201(a) of the PLTIA amends 35 U.S.C. 111(b) to more closely align the corresponding provisions for nonprovisional applications in 35 U.S.C. 111(a) and provisional applications in 35 U.S.C. 111(b). Section 1.53(c) as adopted in this final rule thus provides that the filing date of a provisional application is the date on which a specification, with or without claims, is received in the Office.

As discussed previously, PLT Article 5 and PLTIA 35 U.S.C. 111(a) provide minimal formal requirements necessary for an application to be entitled to a filing date to safeguard against the loss of a filing date due to a technicality. PLT Article 5 and PLTIA 35 U.S.C. 111 should not be viewed as prescribing a best practice for the preparation and filing of a patent application. The

preparation of claims to any claimed invention for which patent protection is desired and inclusion of such claims with the application on filing will help ensure that the application satisfies the disclosure requirements of 35 U.S.C. 112(a) for any such claimed invention.

Section 201(a) of the PLTIA amends 35 U.S.C. 111(a) to provide that the claim or claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Office, and that upon failure to submit one or more claims within the period prescribed by the Office, the application shall be regarded as abandoned. Section 1.53(f) as adopted in this final rule thus provides that an application filed without at least one claim would be treated in a manner analogous to how an application without the filing, search, or examination fee is treated under pre-existing § 1.53. Section 1.53(f) specifically provides that if an application which has been accorded a filing date pursuant to § 1.53(b) does not include at least one claim: (1) The applicant will be notified and given a period of time within which to file a claim or claims and pay the surcharge if required by § 1.16(f) to avoid abandonment if the applicant has provided a correspondence address; and (2) the applicant has three months from the filing date of the application within which to file a claim or claims and pay the surcharge required by § 1.16(f) to avoid abandonment if the applicant has not provided a correspondence address.

The changes to § 1.53 to implement the changes to 35 U.S.C. 111 in section 201 of the PLTIA and the change to 35 U.S.C. 171 in section 202(a) of the PLTIA (just discussed previously) apply only to applications under 35 U.S.C. 111 filed on or after December 18, 2013.

Section 1.53 is also amended to implement the change to 35 U.S.C. 115 in section 1(f) of the Act to correct and improve certain provisions of the Leahy-Smith America Invents Act and title 35, United States Code (AIA Technical Corrections Act). Section 1(f) of the AIA Technical Corrections Act amends 35 U.S.C. 115(f) to read as follows: ''[t]he applicant for patent shall provide each required oath or declaration under [35 U.S.C. 115](a), substitute statement under [35 U.S.C. 115](d), or recorded assignment meeting the requirements of [35 U.S.C. 115](e) no later than the date on which the issue fee for the patent is paid.'' *See* Public Law 112–274, section 1(f), 126 Stat. 2456–57 (2013).

In the rulemaking to implement the inventor's oath or declaration provisions of the AIA, the Office provided that applicants may postpone filing the inventor's oath or declaration until the application is otherwise in condition for allowance if the applicant provides an application data sheet before examination indicating the name, residence, and mailing address of each inventor. *See Changes to Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act,* 77 FR 48776, 48779–80 (Aug. 14, 2012) (final rule). AIA 35 U.S.C. 115(f) provided that a notice of allowance under 35 U.S.C. 151 may be provided to an applicant only if the applicant has filed each required oath or declaration under 35 U.S.C. 115(a), substitute statement under 35 U.S.C. 115(d), or recorded assignment meeting the requirements of 35 U.S.C. 115(e). The Office thus provided that if an application is in condition for allowance but does not include an oath or declaration in compliance with § 1.63, or a substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor, the Office will issue a ''Notice of Allowability'' (PTOL–37) (but not a ''Notice of Allowance and Fee(s) Due'' (PTOL–85)) giving the applicant three months to file an oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor, to avoid abandonment. The Office also provided that the ''Notice of Allowance and Fee(s) Due'' (PTOL–85)) will not be issued until the application includes an oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor. *See Changes to Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act,* 77 FR at 48787–88.

The change to 35 U.S.C. 115(f) in section 1(f) of the AIA Technical Corrections Act permits the Office to issue a ''Notice of Allowance and Fee(s) Due'' (PTOL–85) before the application includes an oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor. *See Changes to Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act,* 77 FR at 48802 (noting that the only effect of AIA 35 U.S.C. 115(f) is to preclude the Office from issuing a notice of allowance until each required inventor's oath or declaration has been filed). The Office is thus revising the provisions pertaining to the filing of an application without the inventor's oath or declaration to provide that if an application is in condition for allowance but does not include an oath or declaration in compliance with § 1.63, or a substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor, the Office will issue a ''Notice of Allowability'' (PTOL–37) requiring an oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor, together with the ''Notice of Allowance and Fee(s) Due'' (PTOL–85).

35 U.S.C. 115(f) does not specifically provide for the consequence that results if an applicant fails to provide an oath or declaration in compliance with § 1.63, or a substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor. PLTIA 35 U.S.C. 111(a)(3), however, provides that the ''fee, oath or declaration, and 1 or more claims may be submitted after the filing date of the application, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director,'' and that ''[u]pon failure to submit the fee, oath or declaration, and 1 or more claims within such prescribed period, the application shall be regarded as abandoned.'' Section 1.53(f)(3)(ii) as adopted in this final rule thus provides that if the applicant is notified in a notice of allowability that an oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each named inventor has not been filed, the applicant must file each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, no later than the date on which the issue fee is paid to avoid abandonment (which time period is not extendable). Section 1.53(f)(3)(ii) as adopted in this final rule also provides that: (1) The applicant must file each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, no later than the date on which the issue fee for the patent is paid (as required by 35 U.S.C. 115(f)); and (2) that the Office may dispense with the notice provided for in § 1.53(f)(1) if each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, has been filed before the application is in condition for allowance.

Section 1.54: Section 1.54(b) is amended to provide that a letter limited to a request for a filing receipt (which

includes a corrected filing receipt) may be signed by a juristic applicant or patent owner. PLT Article 7(2) provides that an assignee of an application, an applicant, owner, or other interested person may act *pro se* before the Office for the issue of a receipt or notification by the Office in respect of any procedure referred to in PLT Article 7(2)(a)(i) through 7(2)(a)(iii).

Section 1.55: Section 1.55 is amended to implement the provisions in section 201(c) of the PLTIA and PLT Article 13 for the restoration of the right of priority. Section 201(c) of the PLTIA amends 35 U.S.C. 119(a) by adding that the Director may prescribe regulations, including the requirement for payment of the fee specified in 35 U.S.C. 41(a)(7), pursuant to which the twelve-month period set forth 35 U.S.C. 119(a) may be extended by an additional two months if the delay in filing the application in the United States within the twelve-month period was unintentional.

Section 1.55(b) is amended to provide that its time period requirement is subject to § 1.55(c).

Section 1.55(c) as adopted in this final rule contains the provisions relating to the restoration of the right of priority under 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b). Section 1.55(c) as adopted in this final rule specifically provides that if the subsequent application has a filing date which is after the expiration of the twelve-month period (six-month period in the case of a design application) set forth in § 1.55(b), but within two months from the expiration of the period set forth in § 1.55(b), the right of priority in the subsequent application may be restored upon petition if the delay in filing the subsequent application within the period set forth in § 1.55(b) was unintentional. When the last day for filing an application within the period set forth in § 1.55(b) falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the additional two-month period specified in § 1.55(c) is measured from the next succeeding secular or business day. *See* 35 U.S.C. 21(b). Section 1.55(c) as adopted in this final rule further provides that a petition to restore the right of priority under § 1.55(b) filed in the subsequent application must include: (1) The priority claim under 35 U.S.C. 119(a) through (d) or (f) or 365(a) or (b) in an application data sheet (§ 1.76(b)(6)), identifying the foreign application to which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing, unless previously submitted; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the delay in filing the subsequent application within the twelve-month period (six-month period in the case of a design application) set forth in § 1.55(b) was unintentional. Section 1.55(c) as adopted in this final rule further provides that the Director may require additional information where there is a question whether the delay was unintentional.

Section 1.55(c) as adopted in this final rule also provides that the right of priority in the subsequent application may be restored under PCT Rule 26*bis*.3. A decision by a Receiving Office to restore a right of priority under PCT Rule 26*bis*.3 in an international application designating the United States is effective as to the United States in the national stage of such application in accordance with PCT Rule 49*ter*.1.

The procedure set forth in § 1.55(c) as adopted in this final rule is for applicants whose delay in filing the subsequent application within the twelve-month time period in 35 U.S.C. 119(a) was unintentional. The use of the additional two-month time period in 35 U.S.C. 119(a) as an ''extension of time'' to file the subsequent application would be considered an abuse of the provisions. *Cf. In re Application of S.,* 8 USPQ2d 1630, 1632 (Comm'r Pat. 1988) (use of the procedures for the revival of an unintentionally abandoned application as an ''extension of time'' is an abuse of the revival procedures).

The provisions of former § 1.55(c) pertaining to the time for filing a priority claim in an application entering the national stage under 35 U.S.C. 371 have been transferred to § 1.55(d) and the provisions of former § 1.55(c) pertaining to the time for filing a certified copy of the foreign application in an application entering the national stage under 35 U.S.C. 371 have been transferred to § 1.55(f). With the changes to § 1.55(c), (d), and (f) in this final rule, § 1.55 is organized as follows: (1) § 1.55(a) provides generally that a nonprovisional application may claim priority to one or more prior foreign applications under the conditions specified in 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b); (2) § 1.55(b) contains provisions relating to the time for filing a nonprovisional application claiming priority to a foreign application under 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b)); (3) § 1.55(c) contains the provisions relating to the restoration of the right of priority under 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b); (4) § 1.55(d) contains the provisions relating to the time for filing a priority claim in any nonprovisional application (an application filed under 35 U.S.C. 111(a) or an application entering the national stage under 35 U.S.C. 371); (5) § 1.55(e) contains the provisions relating to delayed priority claims in an application filed under 35 U.S.C. 111(a) or in a national stage application under 35 U.S.C. 371; (6) § 1.55(f) contains the provisions relating to the time for filing the certified copy of a foreign application in any nonprovisional application (an application filed under 35 U.S.C. 111(a) or an application entering the national stage under 35 U.S.C. 371); (7) § 1.55(g) contains the provisions relating to the filing of a priority claim, certified copy of the foreign application, and translation of a non-English language foreign application in any application; (8) § 1.55(h) contains the provisions relating to the priority document exchange agreement; (9) § 1.55(i) contains the provisions relating to the filing of an interim copy of a foreign application; (10) § 1.55(j) contains the provisions relating to requirements for certain applications filed on or after March 16, 2013; (11) § 1.55(k) contains the provisions relating to inventor's certificates; and (12) § 1.55(l) provides that the time periods set forth in § 1.55 are not extendable.

Section 1.55(d) is amended to specify the time for filing a priority claim in any nonprovisional application (applications under 35 U.S.C. 111(a) and international application entering the national stage under 35 U.S.C. 371).

Section 1.55(d)(1) pertains to applications under 35 U.S.C. 111(a). Section 1.55(d)(1) provides that the claim for priority must be filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application in an original application filed under 35 U.S.C. 111(a), except as provided in § 1.55(e). Section 1.55(d)(1) further provides that the claim for priority must be presented in an application data sheet (§ 1.76(b)(6)), and must identify the foreign application to which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing. Section 1.55(d)(1) finally provides that the time period in § 1.55(d)(1) does not apply in a design application. The provisions of § 1.55(d)(1) were included in former § 1.55(d).

Section 1.55(d)(2) pertains to international applications entering the national stage under 35 U.S.C. 371. Section 1.55(d)(2) provides that the claim for priority must be made within the time limit set forth in the PCT and

the Regulations under the PCT in an international application entering the national stage under 35 U.S.C. 371, except as provided in § 1.55(e). The provisions of § 1.55(d)(2) were included in former § 1.55(c).

Section 1.55(e) is amended to also provide for delayed priority claims under 35 U.S.C. 365(b) in a national stage application under 35 U.S.C. 371. Section 1.55(e) is further amended for consistency with the change to 35 U.S.C. 119(b) in section 202(b)(2) of the PLTIA (replaces ''payment of a surcharge'' with ''payment of the fee specified in section 41(a)(7)''). *See* discussion of § 1.17(m).

Section 1.55(f) is amended to specify the time for filing a certified copy of the foreign application in any nonprovisional application (applications under 35 U.S.C. 111(a) and international applications entering the national stage under 35 U.S.C. 371).

Section 1.55(f)(1) pertains to applications under 35 U.S.C. 111(a). Section 1.55(f)(1) provides that a certified copy of the foreign application must be filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application in an original application filed under 35 U.S.C. 111(a) (except as provided in § 1.55(h) and (i)). Section 1.55(f)(1) also provides that the time period in § 1.55(f)(1) does not apply in a design application. The provisions of § 1.55(f)(1) were included in former § 1.55(f).

Section 1.55(f)(2) pertains to international applications entering the national stage under 35 U.S.C. 371. Section 1.55(f)(2) provides that a certified copy of the foreign application must be filed within the time limit set forth in the PCT and the Regulations under the PCT in an international application entering the national stage under 35 U.S.C. 371. This provision of § 1.55(f)(2) was included in former § 1.55(c). Section 1.55(f)(2) as adopted in this final rule also provides for the situation in which a certified copy of the foreign application is not filed during the international stage of an international application. Section 1.55(f)(2) provides that in such a situation a certified copy of the foreign application must be filed within four months from the date of entry into the national stage as set forth in § 1.491 or sixteen months from the filing date of the prior-filed foreign application (except as provided in § 1.55(h) and (i)).

Section 1.55(f)(3) provides for the situation in which a certified copy of the foreign application is not filed within the period specified in 1.55(f)(1) in an application under 35 U.S.C. 111(a) or within the period specified in 1.55(f)(2) in an international application entering the national stage under 35 U.S.C. 371, and the exceptions in § 1.55(h) and (i) are not applicable. Section 1.55(f)(3) provides that in this situation the certified copy of the foreign application must be accompanied by a petition including a showing of good and sufficient cause for the delay and the petition fee set forth in § 1.17(g).

Section 1.55(h) is amended to delete the reference to § 1.55(c) for consistency with the transfer of the provisions of former § 1.55(c) to § 1.55(d) and (f).

Section 1.57: Section 1.57 is amended to implement the reference filing provisions of section 201(a) of the PLTIA (new 35 U.S.C. 111(c)) and PLT Article 5(7). Section 1.57 was amended in 2004 to implement the provisions of PLT Article 5(6) pertaining to applications containing a missing part of the description or a missing drawing. *See Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan,* 69 FR 56482, 56499 (Sept. 21, 2004).

35 U.S.C. 111(c) provides that a reference made upon the filing of an application to a previously filed application shall, as prescribed by the Office, constitute the specification and any drawings of the subsequent application for purposes of a filing date. 35 U.S.C. 111(c) specifically provides that the Director may prescribe the conditions, including the payment of a surcharge, under which a reference made upon the filing of an application under 35 U.S.C. 111(a) to a previously filed application, specifying the previously filed application by application number and the intellectual property authority or country in which the application was filed, shall constitute the specification and any drawings of the subsequent application for purposes of a filing date. PLT Rule 2(5) requires that this reference to the previously filed application indicate that, for the purposes of the filing date, the description and any drawings of the application are replaced by the reference to the previously filed application, and also provides that a Contracting Party may require that the reference indicate the filing date of the previously filed application. Section 1.57(a) as adopted in this final rule thus provides that, subject to the conditions and requirements of § 1.57(a), a reference made in the English language in an application data sheet in accordance with § 1.76 upon the filing of an application under 35 U.S.C. 111(a) to a previously filed application, indicating that the specification and any drawings of the application under 35 U.S.C. 111(a) are replaced by the reference to the previously filed application, and specifying the previously filed application by application number, filing date, and the intellectual property authority or country in which the previously filed application was filed, shall constitute the specification and any drawings of the application under 35 U.S.C. 111(a) for purposes of a filing date under § 1.53(b). The requirement for a reference to the previously filed application in an application data sheet will be satisfied by the presentation of such reference to the previously filed application on the Patent Law Treaty Model International Request Form filed in the Office (*see* discussion of § 1.76).

For an application under 35 U.S.C. 111(a) filed by reference to a previously filed application under § 1.57(a), the specification and any drawings of the previously filed application will constitute the specification and any drawings of the application under 35 U.S.C. 111(a) filed by reference under § 1.57(a). Thus, the specification and any drawings of the previously filed application will be considered in determining whether an application under 35 U.S.C. 111(a) filed by reference under § 1.57(a) is entitled to a filing date under § 1.53(b).

35 U.S.C. 111(c) further provides that a copy of the specification and any drawings of the previously filed application shall be submitted within such period and under such conditions as may be prescribed by the Director, and that a failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded as abandoned. Section 1.57(a) as adopted in this final rule thus provides that: (1) The applicant will be notified and given a period of time within which to file a copy of the specification and drawings from the previously filed application, an English language translation of the previously filed application, and the fee required by § 1.17(i) if the previously filed application is in a language other than English, and pay the surcharge required by § 1.16(f), to avoid abandonment if the applicant has provided a correspondence address (§ 1.57(a)(1)); and (2) the applicant has three months from the filing date of the application to file a copy of the specification and drawings from the previously filed application, an English language translation of the previously filed application, and the fee required

by § 1.17(i) if the previously filed application is in a language other than English, and pay the surcharge required by § 1.16(f), to avoid abandonment if the applicant has not provided a correspondence address (§ 1.57(a)(2)). Section 1.57(a) as adopted in this final rule also provides that such a notice may be combined with a notice under § 1.53(f) (*e.g.,* a notice requiring that the applicant provide at least one claim and pay the filing fees).

Applicants filing by reference under 35 U.S.C. 111(c) and § 1.57 should take care to ensure that the application number, filing date, and intellectual property authority or country of the previously filed application are accurately specified on the application data sheet (or Patent Law Treaty Model International Request Form) as the specification and drawings of the application specified on the application data sheet are the specification and drawings of the application being filed by reference under 35 U.S.C. 111(c) and § 1.57. If an applicant specifies an application number, filing date, or intellectual property authority or country of an application other than the application number, filing date, or intellectual property authority or country of the intended previously filed application on the application data sheet (*i.e.,* the applicant mistypes the application number, filing date, or intellectual property authority or country on the application data sheet), the applicant may file a petition under § 1.53 to have the application accorded a filing date as of the date the specification and drawings of the intended previously filed application are filed in the Office using that specification and drawings (rather than the specification and drawings of the application specified on the application data sheet). Simply submitting the specification and drawings of the intended previously filed application without such a petition under § 1.53 in reply to a notice under § 1.57(a) requiring the specification and drawings of the application specified on the application data sheet will result in the submission being treated as an incomplete reply. In addition, if the previously filed application is also a foreign priority application under 35 U.S.C. 119(a) through (d) and (f) and § 1.55, an applicant should consider filing a copy of the specification and drawings of the previously filed application in the Office no later than fourteen month from the filing date of the previously filed application (regardless of the time period provided in § 1.57(a)) to avoid the loss of the right of priority under 35 U.S.C. 119(a) through (d) and (f) and § 1.55 in the event that any of the application number, filing date, or intellectual property authority or country of the application specified on the application data sheet is not the application number, filing date, or intellectual property authority or country of the intended previously filed application.

35 U.S.C. 111(c) also provides that an application abandoned due to failure to submit a copy of the specification and any drawings of the previously filed application within the prescribed period shall be treated as having never been filed unless: (1) The application is revived under 35 U.S.C. 27; and (2) a copy of the specification and any drawings of the previously filed application are submitted to the Director. Section 1.57(a)(3) as adopted in this final rule thus provides that an application abandoned under § 1.57(a)(1) or (a)(2) shall be treated as having never been filed, unless: (1) The application is revived under § 1.137; and (2) a copy of the specification and any drawings of the previously filed application are filed in the Office.

Section 1.57(a)(4) as adopted in this final rule provides that a certified copy of the previously filed application must be filed in the Office, unless the previously filed application is an application filed under 35 U.S.C. 111 or 363, or the previously filed application is a foreign priority application and the conditions set forth in § 1.55(h) are satisfied with respect to such foreign priority application. Section 1.57(a)(4) as adopted in this final rule also provides that the certified copy of the previously filed application (when required by § 1.57(a)(4)) must be filed within the later of four months from the filing date of the application or sixteen months from the filing date of the previously filed application, or must be accompanied by a petition including a showing of good and sufficient cause for the delay and the petition fee set forth in § 1.17(g).

Section 1.57(b) as adopted in this final rule contains the provisions of former § 1.57(a), except to provide that if an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to § 1.53(e) (rather than a petition pursuant to § 1.57). Thus, any filing date petition for an application under 35 U.S.C. 111(a) is a petition under § 1.53(e), regardless of whether the application under 35 U.S.C. 111(a) relies upon the incorporation by reference provisions of § 1.57(a), (b), or (c).

Sections 1.57(c) through (h) as adopted in this final rule contain the provisions of former § 1.57(b) through (g).

Section 1.57(i) as adopted in this final rule provides that an application transmittal letter limited to the transmittal of a copy of the specification and drawings from a previously filed application submitted under § 1.57(a) or (b) of this section may be signed by a juristic applicant or patent owner. PLT Article 7(2) and PLT Rule 7(1) provide that an assignee of an application, an applicant, owner, or other interested person may act *pro se* before the Office for the filing of a copy of a previously filed application for purposes of the reference filing provisions of PLT Article 5(7) and reliance upon a reference to a prior-filed application to provide the missing parts of the description or missing drawings under PLT Article 5(6).

Section 1.58: Section 1.58(a) is amended to provide that the description portion of the specification may contain tables, but the same tables ''should'' (rather than ''must'') not be included in both the drawings and description portion of the specification.

Section 1.72: Section 1.72(b) is amended to provide that the abstract must be as concise as the disclosure permits, preferably not exceeding 150 words in length. *See* PCT Rule 8.1(b) (''[t]he abstract shall be as concise as the disclosure permits (preferably 50 to 150 words if it is in English or when translated into English)'').

Section 1.76: Section 1.76(b)(3) is amended to include the sentence: ''[w]hen information concerning the previously filed application is required under § 1.57(a), application information also includes the reference to the previously filed application, indicating that the specification and any drawings of the application are replaced by the reference to the previously filed application, and specifying the previously filed application by application number, filing date, and the intellectual property authority or country in which the previously filed application was filed.'' *See* discussion of § 1.57(a).

Section 1.76(d)(2) is amended to provide that the information in the application data sheet will govern when inconsistent with the information supplied at any time in a Patent Cooperation Treaty Request Form, Patent Law Treaty Model International Request Form, Patent Law Treaty Model International Request for Recordation of Change in Name or Address Form, or Patent Law Treaty Model International Request for Recordation of Change in

Applicant or Owner Form. Whenever information in a Patent Cooperation Treaty Request Form or Patent Law Treaty Model Form is inconsistent with the information in the application data sheet, the information in the application data sheet will govern regardless of whether the application data sheet was filed before or after the Patent Cooperation Treaty Request Form or Patent Law Treaty Model Form. Thus, incorrect information in an application data sheet must be corrected via a new application data sheet (§ 1.76(c)) rather than a Patent Cooperation Treaty Request Form or Patent Law Treaty Model Form as the previously filed application data sheet will govern over the Patent Cooperation Treaty Request Form or Patent Law Treaty Model Form.

Section 1.76 is also amended to permit the use of Patent Law Treaty Model International Forms as appropriate or the Patent Cooperation Treaty Request Form in lieu of an application data sheet under § 1.76.

Section 1.76(f) as adopted in this final rule provides that: (1) The requirement in § 1.55 or 1.78 for the presentation of a priority or benefit claim under 35 U.S.C. 119, 120, 121, or 365 in an application data sheet will be satisfied by the presentation of such priority or benefit claim in the Patent Law Treaty Model International Request Form; (2) the requirement in § 1.57(a) for a reference to the previously filed application in an application data sheet will be satisfied by the presentation of such reference to the previously filed application in the Patent Law Treaty Model International Request Form; and (3) the requirement in § 1.46 for the presentation of the name of the applicant under 35 U.S.C. 118 in an application data sheet will be satisfied by the presentation of the name of the applicant in the Patent Law Treaty Model International Request Form, Patent Law Treaty Model International Request for Recordation of Change in Name or Address Form, or Patent Law Treaty Model International Request for Recordation of Change in Applicant or Owner Form, as applicable.

Section 1.76(g) as adopted in this final rule provides that the requirement in § 1.78 for the presentation of a benefit claim under 35 U.S.C. 119, 120, 121, or 365 in an application data sheet will be satisfied in a national stage application under 35 U.S.C. 371 by the presentation of such benefit claim in the Patent Cooperation Treaty Request Form contained in the international application or the presence of such benefit claim on the front page of the publication of the international application under PCT Article 21(2). Section 1.76(g) states ''the Patent Cooperation Treaty Request Form contained in the international application'' to make clear that the provision does not allow for that addition or correction of benefit claim (or any other) information during the national stage via the submission of a new Patent Cooperation Treaty Request Form. Applicants may add or correct benefit claim (or any other) information during the national stage via the submission of an application data sheet under § 1.76 (assuming that the conditions and requirements for such addition or correction are satisfied). Section 1.76(g) provides for presence of such benefit claim on the front page of the publication of the international application under PCT Article 21(2) to account for replacement sheets of the Patent Cooperation Treaty Request Form that may not be forwarded to each national office but that are reflected in the IB publication of the international application. Section 1.76(g) does not mention either the provisions in § 1.55 for the presentation of a priority claim under 35 U.S.C. 119 or 365 in an application data sheet or the provisions in § 1.46 for the presentation of the name of the applicant under 35 U.S.C. 118 in an application data sheet with respect to a national stage application under 35 U.S.C. 371 as this information is taken from the WIPO records of the international application in a national stage application under 35 U.S.C. 371.

Section 1.76(g) also provides that the requirement in § 1.55 or § 1.78 for the presentation of a priority or benefit claim under 35 U.S.C. 119, 120, 121, or 365 in an application data sheet and the requirement in § 1.46 for the presentation of the name of the applicant under 35 U.S.C. 118 in an application data sheet will be satisfied in an application under 35 U.S.C. 111 by the presentation of such priority or benefit claim and presentation of the name of the applicant in a Patent Cooperation Treaty Request Form. Section 1.76(g) finally also provides that if a Patent Cooperation Treaty Request Form is submitted in an application under 35 U.S.C. 111, the Patent Cooperation Treaty Request Form must be accompanied by a clear indication that treatment of the application as an application under 35 U.S.C. 111 is desired.

Section 1.78: Section 1.78 is amended to implement the provisions in section 201(c) of the PLTIA and PLT Article 13 for the restoration of the right to the benefit of a provisional application. Section 201(c) of the PLTIA specifically amends 35 U.S.C. 119(e)(1) by adding that the Director may prescribe regulations, including the requirement for payment of the fee specified in 35 U.S.C. 41(a)(7), pursuant to which the twelve-month period set forth in 35 U.S.C. 119(e) may be extended by an additional two months if the delay in filing the application under 35 U.S.C. 111(a) or 363 within the twelve-month period was unintentional.

Section 1.78(a) as adopted in this final rule contains the provisions of former § 1.78(a), § 1.78(b) as adopted in this final rule contains the provisions pertaining to the restoration of the right to the benefit of a provisional application, and § 1.78(c) through (h) contain the provisions of former § 1.78(b) through (g), respectively. Therefore, § 1.78 as adopted in this final rule is organized as follows: (1) § 1.78(a) contains provisions relating to claims under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application; (2) § 1.78(b) contains provisions relating to the restoration of the right to the benefit of a provisional application under 35 U.S.C. 119(e); (3) § 1.78(c) contains provisions relating to delayed claims under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application; (4) § 1.78(d) contains provisions relating to claims under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed nonprovisional or international application; (5) § 1.78(e) contains provisions relating to delayed claims under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed nonprovisional or international application; (6) § 1.78(f) contains provisions relating to applications containing patentably indistinct claims; (7) § 1.78(g) contains provisions relating to applications or patents under reexamination naming different inventors and containing patentably indistinct claims; and (8) § 1.78(h) provides that the time periods set forth in § 1.78 are not extendable.

Section 1.78(a)(1) as adopted in this final rule also provides that the twelve-month period is subject to PCT Rule 80.5, as well as 35 U.S.C. 21(b) (and § 1.7(a)).

Section 1.78(a)(4) as adopted in this final rule also provides that if the later-filed application is a national stage application under 35 U.S.C. 371, this reference must be submitted within the latest of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f), four months from the date of the initial submission under 35 U.S.C. 371 to enter the national stage, or sixteen months from the filing date of the prior-filed provisional application. This change may avoid the need for petitions under both § 1.137 and § 1.78(c) in the

situation in which the applicant does not make the initial submission under 35 U.S.C. 371 to enter the national stage within four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

As discussed previously, § 1.78(b) as adopted in this final rule contains the provisions pertaining to the restoration of the right to the benefit of a provisional application under 35 U.S.C. 119(e). Section 1.78(b) as adopted in this final rule also provides that if the nonprovisional application or international application designating the United States of America has a filing date which is after the expiration of the twelve-month period set forth in § 1.78(a)(1) but within two months from the expiration of the period set forth in § 1.78(a)(1), the benefit of the provisional application may be restored upon petition if the delay in filing the nonprovisional application or international application designating the United States of America within the period set forth in § 1.78(a)(1) was unintentional. When the last day for filing an application within the period set forth in § 1.78(a)(1) falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the additional two-month period specified in § 1.78(b) is measured from the next succeeding secular or business day. *See* 35 U.S.C. 21(b). Section 1.78(b) as adopted in this final rule further provides that a petition to restore the benefit of the provisional application under this paragraph filed in the nonprovisional application or international application designating the United States of America must include: (1) The reference required by 35 U.S.C. 119(e) and § 1.78(a)(3) to the prior-filed provisional application, unless previously submitted; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the delay in filing the nonprovisional application or international application designating the United States of America within the twelve-month period set forth in § 1.78(a)(1) was unintentional. Section 1.78(b) as adopted in this final rule further provides that the Director may require additional information where there is a question whether the delay was unintentional.

Section 1.78(b) as adopted in this final rule further provides that the right of priority in the subsequent application may be restored under PCT Rule 26*bis*.3. A decision by a Receiving Office to restore a right of priority under PCT Rule 26*bis*.3 to a provisional application in an international application designating the United States is effective as to the United States in the national stage of such application in accordance with PCT Rule 49*ter*.1.

Section 1.78(b) as adopted in this final rule finally provides that the restoration of the right of priority under PCT Rule 26*bis*.3 to a provisional application does not affect the requirement to include the reference required by § 1.78(a)(3) to the provisional application in a national stage application under 35 U.S.C. 371 within the time period provided by § 1.78(a)(4) to avoid waiver of the benefit claim.

The procedure set forth in § 1.78(b) as adopted in this final rule is for applicants whose delay in filing the subsequent application within the twelve-month time period in 35 U.S.C. 119(e)(1) was unintentional. The use of the additional two-month time period in 35 U.S.C. 119(e)(1) as an ''extension of time'' to file the subsequent application would be considered an abuse of the provisions. *Cf. Application of S.,* 8 USPQ2d at 1632 (use of the procedures for the revival of an unintentionally abandoned application as an ''extension of time'' is an abuse of the revival procedures).

Section 1.78(c) as adopted in this final rule also implements the changes to 35 U.S.C. 119(e) in section 201(c)(1)(B)(i)(II) of the PLTIA. Section 201(c)(1)(B)(i)(II) of the PLTIA replaces ''payment of a surcharge'' with ''payment of the fee specified in section 41(a)(7)'' (*see* discussion of § 1.17(m)) and deletes ''during the pendency of the application.'' Section 1.78(c) as adopted in this final rule thus also provides that if the reference required by 35 U.S.C. 119(e) and § 1.78(a)(3) is presented in an application (either a nonprovisional application or an international application designating the United States) after the time period provided by § 1.78(a)(4), the claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application may be accepted if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. Section 1.78(c) as adopted in this final rule further provides that a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application must be accompanied by: (1) The reference required by 35 U.S.C. 119(e) and § 1.78(a)(3) to the prior-filed provisional application, unless previously submitted; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay between the date the benefit claim was due under § 1.78(a)(4) and the date the benefit claim was filed was unintentional. Section 1.78(c) as adopted in this final rule further provides that the Director may require additional information where there is a question as to whether the delay was unintentional.

Section 1.78(d)(3) as adopted in this final rule also provides that if the later-filed application is a nonprovisional application entering the national stage from an international application under 35 U.S.C. 371, this reference must be submitted within the latest of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application, four months from the date of the initial submission under 35 U.S.C. 371 to enter the national stage, or sixteen months from the filing date of the prior-filed application. This change may avoid the need for petitions under both § 1.137 and § 1.78(e) in the situation in which the applicant does not make the initial submission under 35 U.S.C. 371 to enter the national stage within four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

Section 1.78(e)(2) as adopted in this final rule is also amended for consistency with the change to 35 U.S.C. 120 in section 202(b)(3) of the PLTIA (replaces ''payment of a surcharge'' with ''payment of the fee specified in section 41(a)(7)''). *See* discussion of § 1.17(m).

Section 1.81: Section 1.81(a) is amended to delete the provision that a drawing (where necessary for the understanding of the subject matter sought to be patented), or a high quality copy thereof, must be filed with the application. As discussed previously, 35 U.S.C. 111 no longer requires that an application contain a drawing where necessary for the understanding of the subject matter sought to be patented to be entitled to a filing date. 35 U.S.C. 113 continues to provide, however, that ''[t]the applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented'' and that ''[d]rawings submitted after the filing date of the application may not be used (i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.'' *See* 35 U.S.C. 113. Thus, the absence of any drawing on the filing of an application where a drawing is necessary for the understanding of the subject matter sought to be patented may result in an applicant not being

able to obtain a patent for any claimed invention presented in the application, but the absence of any drawing on the filing of an application no longer raises a question as to whether the application is entitled to a filing date.

As discussed previously, PLT Article 5 and PLTIA 35 U.S.C. 111 should not be viewed as prescribing a best practice for the preparation and filing of a patent application. The preparation of drawings for a provisional or nonprovisional application is prudent where a drawing is necessary for the understanding of the subject matter sought to be patented, and inclusion of such drawing(s) with the application on filing will help ensure that the requirements of 35 U.S.C. 113 are satisfied for any such claimed invention.

Section 1.83: Section 1.83(a) is amended to provide that tables that are included in the specification and sequences that are included in sequence listings ''should'' (rather than ''must'') not be duplicated in the drawings.

Section 1.85: Section 1.85(c) is amended to provide that if a corrected drawing is required or if a drawing does not comply with § 1.84 at the time an application is allowed, the Office may notify the applicant in a notice of allowability and set a three-month (non-extendable) period of time from the mailing date of the notice of allowability within which the applicant must file a corrected drawing in compliance with § 1.84 to avoid abandonment.

Section 1.131: Section 1.131(a) is amended to change ''the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under § 1.42 or § 1.46,'' to ''the applicant or patent owner.'' The final rule to implement the inventor's oath or declaration provisions (section 4) of the AIA changed the phrase ''the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under § 1.42, 1.43, or 1.47'' to ''the applicant or patent owner.'' *See Changes To Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act,* 77 FR 48776, 48793 and 48821 (Aug. 14, 2012). The final rule to implement the first inventor to file provisions (section 3) of the AIA changed ''the applicant or patent owner'' to ''the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under § 1.42 or § 1.46.'' *See Changes to Implement the First Inventor To File Provisions of the Leahy-Smith America Invents Act,* 78 FR 11024, 11036 and 11058 (Feb. 14, 2013). This final rule revises § 1.131(a) to restore the phrase ''the applicant or patent owner,'' and this phrase is applicable both to applications filed before September 12, 2012 (as the party qualified under former § 1.42, 1.43, or 1.47 is the applicant in an application filed before September 16, 2012) and to applications filed on or after September 12, 2012 (as the party qualified under § 1.42 or § 1.46 is the applicant in an application filed on or after September 16, 2012).

Section 1.136: Sections 1.136 is amended to locate the duplicative cross reference provisions of § 1.136(a)(2) and (b) in new § 1.136(d). Section 1.136 is also amended to refer to § 90.3 rather than former § 1.304 for the time for appeal or for commencing a civil action. As discussed previously, the judicial review provisions of §§ 1.302 through 1.304 were replaced by 37 CFR part 90 in September of 2012.

Section 1.137: Section 1.137 is revised to implement the change in the PLTIA to eliminate revival of abandoned applications under the ''unavoidable'' standard and to provide for the revival of abandoned applications (as well as the acceptance of delayed responses in reexamination by patent owners and delayed maintenance fee payments) on the basis of unintentional delay. As discussed previously, section 201(b) of the PLTIA specifically adds new 35 U.S.C. 27, providing that the Director may establish procedures to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing a patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding, upon petition by the applicant for patent or patent owner. The patent laws formerly provided for revival of an unintentionally abandoned application only in the patent fee provisions of 35 U.S.C. 41(a)(7). *See* Public Law 97–247, section 3(a), 96 Stat. 317–18 (1982). This raised questions concerning the Office's authority to revive an unintentionally abandoned application (without a showing of unavoidable delay) in certain situations. *See e.g., Aristocrat Techs. Australia Pty Ltd.* v. *Int'l Game Tech.,* 543 F.3d 657 (Fed. Cir. 2008).

Section 1.137(a) as adopted in this final rule eliminates the provisions pertaining to petitions on the basis of unavoidable delay. Section 1.137(a) as adopted in this final rule instead provides that if the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to § 1.137 to revive an abandoned application or a reexamination prosecution terminated under § 1.550(d) or 1.957(b) or limited under § 1.957(c).

Section 1.137(b) as adopted in this final rule sets out the petition requirements. Section 1.137(b) as adopted in this final rule specifically provides that a grantable petition pursuant to § 1.137 must be accompanied by: (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d); and (4) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this section was unintentional. Section 1.137 as adopted in this final rule continues to provide that the Director may require additional information where there is a question whether the delay was unintentional.

Sections 1.137(c), (d), and (e) as adopted in this final rule eliminate the language pertaining to ''lapsed'' patents. Section 202(b)(6) of the PLTIA amends 35 U.S.C. 151 to delete the third and fourth paragraphs pertaining to the lapsed patent practice.

Section 1.137(c) as adopted in this final rule also provides that in an application abandoned under § 1.57(a), the reply must include a copy of the specification and any drawings of the previously filed application, and clarifies that an application must be abandoned after the close of prosecution as defined in § 1.114(b) for the reply requirement to be met by the filing of a request for continued examination in compliance with § 1.114.

Section 1.137(f) as adopted in this final rule eliminates as unnecessary the language limiting petitions to the unintentional standard. The PLTIA eliminates revival of abandoned applications under the ''unavoidable'' standard.

Section 1.137(g) as adopted in this final rule contains the provisions of former § 1.137(g).

Section 1.138: Section 1.138(b) is amended to change ''§ 1.33(b)(1), (b)(3) or (b)(4)'' to ''§ 1.33(b)(1) or (b)(3)'' for consistency with the elimination of § 1.33(b)(4) in the rulemaking to implement the inventor's oath or declaration provisions of the AIA. *See Changes to Implement the Inventor's Oath or Declaration Provisions of the Leahy-Smith America Invents Act,* 77 FR at 48783, 48814.

Section 1.197: Section 1.197 is amended to refer to § 90.3 rather than former § 1.304 for the time for appeal or for commencing a civil action. As discussed previously, the judicial

review provisions of §§ 1.302 through 1.304 were replaced by 37 CFR part 90 in September of 2012. Section 1.197 is also amended to locate the provisions of paragraphs (b)(1), (b)(1)(i), (b)(1)(ii), and (b)(2) in paragraphs (a), (a)(1), (a)(2), and (b), respectively, as § 1.197(a) was formerly reserved.

Section 1.290: Section 1.290(f) is amended to reference § 1.17(o), rather than § 1.17(p), for consistency with the change to § 1.17. *See* discussion of § 1.17.

Section 1.311: Section 1.311(a) is amended to better track the language of PLTIA 35 U.S.C. 151. Section 1.311 is specifically amended in this final rule to provide that the notice of allowance shall specify a sum constituting the issue fee and any required publication fee (§ 1.211(e)), which issue fee and any required publication fee must both be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This change to § 1.311 does not represent a change in Office practice as pre-existing Office practice is to include any required publication fee (along with the issue fee) in the sum specified in the notice of allowance.

Section 1.317: Section 1.317 is removed and reserved. Section 202(b)(6) of the PLTIA amends 35 U.S.C. 151 to delete the third and fourth paragraphs pertaining to the lapsed patent practice.

Section 1.366: Section 1.366(a) is amended to provide that a maintenance fee transmittal letter may be signed by a juristic applicant or patent owner. PLT Article 7(2)(b) provides that a maintenance fee may be paid by any person.

Section 1.366(b) is amended to correct a typographical error (''other than that set forth § 1.23'' is correct to read ''other than that set forth in § 1.23'').

Section 1.378: Section 1.378 is amended to implement the changes to 35 U.S.C. 41(c)(1) in section 202(b)(1)(B) of the PLTIA. Section 202(b)(1)(B) of the PLTIA amends 35 U.S.C. 41(c)(1) to delete the twenty-four month time limit for unintentionally delayed maintenance fee payments and to delete the reference to an unavoidable standard. PLTIA 35 U.S.C. 41(c)(1) provides that: (1) The Director may accept the payment of any maintenance fee required by 35 U.S.C. 41(b) after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional; (2) the Director may require the payment of the fee specified in 35 U.S.C. 41(a)(7) as a condition of accepting payment of any maintenance fee after the six-month grace period; and (3) if the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

Section 1.378(a) is amended to eliminate the provisions pertaining to petitions on the basis of unavoidable delay.

Section 1.378(b) is also amended to eliminate the provisions pertaining to petitions asserting unavoidable delay. Section 1.378(b) is amended to set out the requirements for petitions asserting unintentional delay (these requirements were formerly set out in § 1.378(c)). Section 1.378(b) is also amended to refer to the petition fee set forth in § 1.17(m) rather than the surcharge set forth in § 1.20(i) as PLTIA 35 U.S.C. 41(c)(1) refers to the fee specified in 35 U.S.C. 41(a)(7) rather than a surcharge.

Section 1.378(c) is amended to provide that any petition under this section must be signed in compliance with § 1.33(b) (§ 1.378(d) sets out the former signature requirement for a petition to accept a delayed maintenance fee payment).

Section 1.378(d) as adopted in this final rule includes the provisions of former § 1.378(e) pertaining to a request for reconsideration of a maintenance fee decision, except that § 1.378(d) as adopted in this final rule eliminates: (1) The requirement for the petition fee under § 1.17(f) for a request for reconsideration of a maintenance fee decision; and (2) the provision that after the decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

Section 1.378(e) as adopted in this final rule includes the provisions of former § 1.378(e) pertaining to the situation in which the maintenance fee will be refunded.

As discussed previously, the PLTIA amends 35 U.S.C. 41(c)(1) to replace ''payment of a surcharge'' with ''payment of the fee specified in [35 U.S.C.] 41(a)(7).'' The PLTIA revises delayed maintenance fee payment practice to be more consistent with abandoned application revival practice, in that there is a petition fee for filing the petition to accept a delayed maintenance fee payment under the PLTIA, rather than a surcharge for accepting a delayed maintenance fee payment under former 35 U.S.C. 41(c). Section 1.378(e) thus does not provide for a refund of the petition fee set forth in § 1.17(m) even if the delayed maintenance fee payment is not accepted. *See* MPEP 711.03(c)(II)(B) (indicating that the petition fee under 35 U.S.C. 41(a)(7) is required for the filing (and not merely the grant) of a petition and that this petition fee will not be refunded regardless of whether the petition is dismissed or denied). Section 1.378(d), however, does not require the petition fee under § 1.17(f) for a request for reconsideration of a maintenance fee decision as § 1.137 does not require the petition fee under § 1.17(f) for a request for reconsideration of a revival decision.

Section 1.452: Section 201(c) of the PLTIA amends 35 U.S.C. 365(b) by adding that the Director may establish procedures, including the requirement for payment of the fee specified in 35 U.S.C. 41(a)(7), to accept an unintentionally delayed claim for priority under the PCT and PCT Regulations, and to accept a priority claim that pertains to an application that was not filed within the priority period specified in the PCT and PCT Regulations, but was filed within the additional two-month period specified under 35 U.S.C. 119(a) or the PCT or PCT Regulations. Section 1.452(b)(2) as adopted in this final rule thus refers to the petition fee as set forth in § 1.17(m) for consistency with section 201(c) of the PLTIA.

Former § 1.452(d) contained a caveat that restoration of a right of priority to a prior application by the United States Receiving Office under § 1.452, or by any other Receiving Office under the provisions of PCT Rule 26*bis*.3, would not entitle applicants to a right of priority in any application which has entered the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right to priority has been restored. This final rule eliminates former § 1.452(d) in view of PLTIA 35 U.S.C. 119 and 365(b).

Section 1.495: As discussed previously, the Office is revising the provisions pertaining to the filing of an application without the inventor's oath or declaration to provide that if an application is in condition for allowance but does not include an oath or declaration in compliance with § 1.63, or a substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor, the Office will issue a ''Notice of Allowability'' (PTOL–37) requiring an oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor, together with the ''Notice of Allowance and Fee(s) Due'' (PTOL–85), since the AIA Technical Corrections Act amends 35 U.S.C. 115(f) to permit the Office to issue a ''Notice of Allowance and Fee(s) Due'' (PTOL–85) before the application includes an oath or declaration in

compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor. As also discussed previously, 35 U.S.C. 115(f) does not specifically provide for the consequence that results if an applicant fails to provide an oath or declaration in compliance with § 1.63, or a substitute statement in compliance with § 1.64, executed by or with respect to each actual inventor. PLTIA 35 U.S.C. 371(d), however, provides that ''[t]he requirement with respect to . . . the oath or declaration referred to in [35 U.S.C. 371(c)(4)] shall be complied with by the date of the commencement of the national stage or by such later time as may be fixed by the Director,'' and that the ''[f]ailure to comply with these requirements shall be regarded as abandonment of the application by the parties thereof.'' The Office is thus amending § 1.495(c)(3)(ii) to provide that if the applicant is notified in a notice of allowability that an oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each named inventor has not been filed, the applicant must file each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, no later than the date on which the issue fee is paid to avoid abandonment (which time period is not extendable). The Office is also amending § 1.495(c)(3)(ii) to provide that: (1) The applicant must file each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, no later than the date on which the issue fee for the patent is paid (as required by 35 U.S.C. 115(f)); and (2) that the Office may dispense with the notice provided for in § 1.495(c)(1) if each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, has been filed before the application is in condition for allowance.

Section 1.550: Section 1.550(c) is amended to allow for no-cause extensions of time for actions by patent owners in patent owner requested or Director ordered *ex parte* reexamination proceedings for up to two months from the time period set for reply in the Office action. Section 1.550(c) provides that any request for such an extension must specify the requested period of extension and be accompanied by the petition fee set forth in § 1.17(g).

Section 1.550(c) continues to provide that: (1) Any request for an extension in a third party requested *ex parte* reexamination must be filed on or before the day on which action by the patent owner is due, and the mere filing of such a request for extension will not effect the extension; and (2) the time for taking any action by a patent owner will not be extended in a third party requested *ex parte* reexamination in the absence of sufficient cause or for more than a reasonable time. A third party requested *ex parte* reexamination is initiated by a party other than the patent owner or the Office and is thus an ''*inter partes* proceeding'' under PLT Rule 12(5)(a)(vi). Thus, this final rule does not change extension of time practice under § 1.550(c) for patent owner replies in a third party requested *ex parte* reexamination.

Section 1.550(c) provides that: (1) A request for an extension in a patent owner requested or Director ordered *ex parte* reexamination for more than two months from the time period set for reply in the Office action must be filed on or before the day on which action by the patent owner is due, and the mere filing of a request for an extension of more than two months from the time period set for reply in the Office action will not effect the extension; and (2) the time for taking any action by a patent owner will not be extended for more than two months from the time period set for reply in the Office action in a patent owner requested or Director ordered *ex parte* reexamination in the absence of sufficient cause or for more than a reasonable time.

Section 1.550(e) is amended for consistency with the change to § 1.137 in this final rule to eliminate the provisions pertaining to petitions on the basis of unavoidable delay. Section 1.550(e) is specifically amended to provide that if a response by the patent owner is not timely filed in the Office, a petition may be filed pursuant to § 1.137 to revive a reexamination prosecution terminated under § 1.550(d) if the delay in response was unintentional.

Section 1.704: Section 1.704 is amended to provide for the situation in which an application is not in condition for examination within eight months from the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application. In implementing the patent term adjustment provisions of the American Inventors Protection Act of 1999 (Pub. L. 106–113, 113 Stat. 1501, 1501A–557 through 1501A–560 (1999)), the Office proposed a reduction of any patent term adjustment if an application was not complete on filing. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR 17215, 17219–20, 17228 (Mar. 31, 2000) (proposed rule). The Office received a number of comments in response to this proposal suggesting that an application being in condition for examination on filing is not necessary for the Office to meet the fourteen-month time frame in 35 U.S.C. 154(b)(1)(A)(i) and that an applicant should be permitted to complete the application and correct application informalities after the filing date of the application. *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term,* 65 FR 56366, 56381 (Sept. 18, 2000) (final rule). The Office did not adopt this proposed reduction in 2000 because an applicant could not delay placing an application in condition for examination to the point that it would contribute to the Office's missing the fourteen-month time frame in 35 U.S.C. 154(b)(1)(A)(i) under the provisions for completing an application (§ 1.53(f)) in effect in 2000 without the applicant's incurring a reduction of patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii). *See id.* Specifically, the fourteen-month time frame in 35 U.S.C. 154(b)(1)(A)(i) did not begin (under the patent laws in effect between 2000 and 2012) until the specification and drawings of an application were filed in the Office, which permitted the Office to conduct a formalities review and issue a notice (if necessary) requiring the applicant to complete the application and correct any application informalities no later than one to two months from the filing of an application. Thus, the Office could review the specification and drawings and issue a notice (if necessary) requiring the applicant to complete the application and correct the application papers no later than two months from the filing of an application. As such, applications would either be in condition for examination within five months from the filing of an application, or the applicant would incur a reduction of any patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii) (providing a reduction of any patent term adjustment for the cumulative total of any periods of time in excess of three months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, and measuring such three-month period from the date the notice was given or mailed to the applicant). The Office, however, also noted that it would revisit this decision if the provisions for completing an application and correcting application formalities contributed to the Office's missing the

fourteen-month time frame under 35 U.S.C. 154(b)(1)(A)(i). *See id.*

The PLT and PLTIA 35 U.S.C. 111 provide applicants with additional opportunities to delay the examination process (*e.g.,* the ability to file an application without any claims and to file an application merely by reference to a prior-filed application). Specifically, the fourteen-month time frame specified in 35 U.S.C. 154(b)(1)(A)(i) may now begin before the specification and drawings of an application are filed in the Office in an application filed under 35 U.S.C. 111(a), due to the change to 35 U.S.C. 111 in the PLTIA. In addition, the fourteen-month time frame specified in 35 U.S.C. 154(b)(1)(A)(i) may now begin before the specification and drawings of an application are filed in the Office in an international application, due to the change to 35 U.S.C. 154(b)(1)(A)(i)(II) in section 1(h)(1)(A) of the AIA Technical Corrections Act, Public Law 112–274, 126 Stat. 2456, 2457 (2013) (changing ''the date on which an international application fulfilled the requirements of section 371'' to ''the date of commencement of the national stage under section 371 in an international application'').

Section 1.704 is amended to provide that the circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the failure to provide an application in condition for examination within eight months from the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application. Section 1.704 as adopted in this final rule does not require that applications be in condition for examination on filing (or commencement of national stage in an international application) in order for an applicant to avoid a reduction of patent term adjustment. It is, however, reasonable to expect that an application should be placed in condition for examination within eight months of its filing date (or date of commencement of national stage in an international application).

Section 1.704(c)(12) as adopted in this final rule provides that where there is a failure to provide an application in condition for examination within eight months from the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application, the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is eight months from the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application and ending on the date the application is in condition for examination. Section 1.704(c)(11) as adopted in this final rule contains the provisions of former § 1.704(c)(11) without the ''and'' at the end (as § 1.704(c)(11) is no longer the penultimate paragraph of § 1.704(c)), and § 1.704(c)(13) as adopted in this final rule contains the provisions of former § 1.704(c)(12).

Section 1.704(f) is added to define when an application is ''in condition for examination'' for purposes of § 1.704(c)(12). Section 1.704(f) as adopted in this final rule provides that an application filed under 35 U.S.C. 111(a) is in condition for examination when the application includes a specification, including at least one claim and an abstract (§ 1.72(b)), and has papers in compliance with § 1.52, drawings in compliance with § 1.84, any English translation required by § 1.52(d) or § 1.57(a), a sequence listing in compliance with §§ 1.821 through 1.825 (if applicable), the inventor's oath or declaration or application data sheet containing the information specified in § 1.63(b), the basic filing fee (§ 1.16(a) or § 1.16(c)), the search fee (§ 1.16(k) or § 1.16(m)), the examination fee (§ 1.16(o) or § 1.16(q)), any certified copy of the previously filed application required by § 1.57(a), and any application size fee required by the Office under § 1.16(s). Section 1.704(f) as adopted in this final rule provides that an international application is in condition for examination when the application has entered the national stage as defined in § 1.491(b), and includes a specification, including at least one claim and an abstract (§ 1.72(b)), and has papers in compliance with § 1.52, drawings in compliance with § 1.84, a sequence listing in compliance with §§ 1.821 through 1.825 (if applicable), the inventor's oath or declaration or application data sheet containing the information specified in § 1.63(b), the search fee (§ 1.492(b)), the examination fee (§ 1.492(c)), and any application size fee required by the Office under § 1.492(j). Section 1.704(f) as adopted in this final rule also provides that an application shall be considered as having papers in compliance with § 1.52, drawings (if any) in compliance with § 1.84, and a sequence listing in compliance with § 1.821 through § 1.825 (if applicable) for purposes of § 1.704(f) on the filing date of the latest reply (if any) correcting the papers, drawings, or sequence listing that is prior to the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

Section 1.809: Section 1.809(c) is amended to provide that if an application for patent is otherwise in condition for allowance except for a needed deposit and the Office has received a written assurance that an acceptable deposit will be made, the Office may notify the applicant in a notice of allowability and set a three-month (non-extendable) period of time from the mailing date of the notice of allowability within which the deposit must be made in order to avoid abandonment.

Section 1.958: Section 1.958 is amended for consistency with the change to § 1.137 in this final rule to eliminate the provisions pertaining to petitions on the basis of unavoidable delay. Section 1.958 is specifically amended to provide that if a response by the patent owner is not timely filed in the Office, a petition may be filed pursuant to § 1.137 to revive a reexamination prosecution terminated under § 1.957(b) or limited under § 1.957(c) if the delay in response was unintentional.

Section 3.11: Section 3.11(a) is amended to implement section 201(d) of the PLTIA. Section 201(d) of the PLTIA amends 35 U.S.C. 261, first paragraph, by adding: ''[t]he Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor.'' Section 3.11(a) is thus amended to provide that other documents relating to interests in patent applications and patents, accompanied by completed cover sheets as specified in § 3.28 and § 3.31, will be recorded in the Office.

Section 3.31: Section 3.31(h) is amended to permit the use of PLT International Model forms as appropriate in lieu of an assignment cover sheet under § 3.31. Section 3.31(h) specifically provides that the assignment cover sheet required by § 3.28 for a patent application or patent will be satisfied by the Patent Law Treaty Model International Request for Recordation of Change in Applicant or Owner Form, Patent Law Treaty Model International Request for Recordation of a License/Cancellation of the Recordation of a License Form, Patent Law Treaty Model International Certificate of Transfer Form, or Patent Law Treaty Model International Request

for Recordation of a Security Interest/Cancellation of the Recordation of a Security Interest Form, as applicable, except where the assignment is also an oath or declaration under § 1.63.

Section 11.18: Section 11.18(a) is amended to simply refer to ''§ 1.4(d)'' (rather than ''§ 1.4(d)(1)'' and ''§ 1.4(d)(2)'' separately) for consistency with the change to § 1.4(d).

Comments and Responses to Comments: The Office published a notice of proposed rulemaking on April 11, 2013, proposing to change the rules of practice to implement the changes in the PLT and title II of the PLTIA. *See Changes to Implement the Patent Law Treaty,* 78 FR 21788 (Apr. 11, 2013) (PLT notice of proposed rulemaking). The Office received nine written submissions containing comments from intellectual property organizations, industry, law firms, individual patent practitioners, and the general public in response to this notice of proposed rulemaking. Comments that supported the proposed changes or pertained to editorial suggestions are not discussed. The remaining comments and the Office's responses to those comments follow:

Comment 1: One comment suggested that § 1.16(f) should be clarified to indicate that only a single surcharge is required for an application regardless of the number of deficiencies present in the application.

Response: Section 1.16(f) as adopted in this final rule has been clarified, as suggested by the comment, to indicate that only a single surcharge is required for an application regardless of the number of deficiencies enumerated in § 1.16(f) that are present in the application.

Comment 2: One comment requested clarification on whether the basic filing fee is applicable to an application filed without any claims, and when the excess claims fee for presenting more than three independent claims or more than twenty total claims must be submitted.

Response: The basic filing fee set forth in § 1.16(a), (b), (c), or (d), the search fee set forth in § 1.16(k), (l), (m), or (n), and the examination fee set forth in § 1.16(o), (p), (q), or (r) are due for an application filed without any claims. If more than three independent claims, more than twenty total claims, or a multiple dependent claim are later presented in the application, the excess claims fee as set forth in § 1.16(h), (i), and/or (j) is due when the excess claims are presented in the application. The provisions of § 1.53(f)(4) are applicable if the excess claims fee as set forth in § 1.16(h), (i), and/or (j) is not paid when the claims requiring an excess claims fee are presented in the application.

Comment 3: One comment expressed concern that allowing the later filing of claims would enable an applicant to draft and file claims for an application in the United States after obtaining examination results in other countries, and would either delay publication of the application or result in publishing an application without claims. The comment suggested that the rules provide applicants with a not unduly long period of time for the filing of claims in such an application.

Response: As discussed in the PLT notice of proposed rulemaking, an application filed without at least one claim would be treated in a manner analogous to the pre-existing practice under § 1.53(f) for treating an application filed without the filing, search, or examination fee. *See Changes to Implement the Patent Law Treaty,* 78 FR at 21793. The pre-existing practice under § 1.53(f) for treating an application filed without the filing, search, or examination fee involves issuing a notice that sets a two-month period (extendable under § 1.136) within which the applicant must supply the missing fees in order to avoid abandonment. The Office will not publish an application until it includes at least one claim. The Office, however, also does not publish applications until the basic filing fee has been paid, and the pre-existing practice under § 1.53(f) for treating an application filed without the filing fee does not delay publication in most applications. Thus, the Office does not expect the changes to 35 U.S.C. 111(a) in the PLTIA and the changes to § 1.53 is this final rule to delay eighteen-month publication.

Comment 4: One comment suggested that the term ''replaced'' in §§ 1.57(a) and 1.76(b)(3) is confusing as it suggests that some other specification and drawings are or need to be present to be replaced. The comment suggests using ''provided'' or ''constituted'' (to match 35 U.S.C. 111(c)).

Response: The phrase ''are replaced'' is used in §§ 1.57(a) and 1.76(b)(3) because that phrase is used in PLT Rule 2(5)(a) as well as in the pre-printed information in the section of the Patent Law Treaty Model Request Form that pertains to reference filing (Box IX).

Comment 5: One comment requested clarification of the applicability of the ''reference filing'' provision of § 1.57(a) to a continuation-in-part application. The comment suggested adding a provision to § 1.57(a) pertaining to applications filed ''by reference'' to a previously filed application with new matter (additional description and/or drawings) included with the filing.

Response: 35 U.S.C. 111(c) provides that the reference to the previously filed application ''shall constitute the specification and any drawings of the subsequent application.'' 35 U.S.C. 111(c) thus does not contemplate the filing by reference of a continuation-in-part of the previously filed application, as the specification and any drawings of the subsequent continuation-in-part application would need to extend beyond the specification and any drawings of the previously filed application. Therefore, there is no provision for the filing of a continuation-in-part of a previously filed application under 35 U.S.C. 111(c) and § 1.57(a). An applicant who desires to file a continuation-in-part of a previously filed application may effectively do so by filing the additional subject matter as the specification of an application under 35 U.S.C. 111(a) and § 1.53(b) with an express incorporation by reference under § 1.57(c) of the previously filed application. An applicant will be required to revise the application (*e.g.,* submit a substitute specification under § 1.125) if ''essential material'' is being incorporated by reference and the previously filed application has not been issued as a U.S. patent or published as a U.S. patent application publication. *See* § 1.57(d), (g), and (h) (as adopted in this final rule). Thus, applicants are encouraged to file a continuation-in-part application with a new specification and drawings that contains both the subject matter of the previously filed application and the additional subject matter, rather than with an incorporation by reference under § 1.57(c) of the previously filed application.

Comment 6: Several comments stated that the Office should not require a certified copy of a prior foreign filed application under § 1.55 or § 1.57 within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application, or provide for a reduction of patent term adjustment if a certified copy of a foreign previously filed application under § 1.57 is not received within a set time period. The comments suggested that the Office revise § 1.57(a)(4) to permit the filing of an interim copy of the foreign previously filed application and provide an exception for the situation in which the foreign previously filed application is filed in a foreign intellectual property office participating with the Office in a bilateral or multilateral priority document exchange agreement (*i.e.,* a

participating foreign intellectual property office).

Response: The Office previously revised § 1.55 in the final rule to implement the first inventor to file provisions of the AIA to require that a certified copy of any foreign priority application be filed in applications under 35 U.S.C. 111(a) within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application (with certain exceptions). *See Changes to Implement the First Inventor To File Provisions of the Leahy-Smith America Invents Act,* 78 FR 11024, 11028–29, 11053–55 (Feb. 14, 2013) (to be codified at § 1.55(f)). The Office included this change to § 1.55 in the final rule to implement the first inventor to file provisions of the AIA to ensure that it has a copy of any foreign priority application by the time of eighteen-month publication since U.S. patent application publications (as well as U.S. patents) will have a prior art effect as of the earliest priority date (for subject matter disclosed in the priority application) with respect to applications subject to AIA 35 U.S.C. 102. *See id.* at 11028.

The changes in this final rule relating to the requirement for a certified copy of a foreign application pertain to: (1) International applications in which a certified copy of the foreign priority application was not filed during the international stage; and (2) applications filed via the reference filing provisions of 35 U.S.C. 111(c) and § 1.57(a) (where the specification and drawings of the application filed by reference are the specification and drawings of the foreign previously filed application).

With respect to international applications in which a certified copy of the foreign priority application is not filed during the international stage, § 1.55 formerly provided that a certified copy of the foreign priority application must be filed within the time limit set forth in the PCT and the Regulations under the PCT in an international application entering the national stage under 35 U.S.C. 371. Section 1.55(f)(2) as adopted in this final rule simply provides that if a certified copy of the foreign priority application is not filed during the international stage of an international application, a certified copy of the foreign priority application must be filed within four months from the date of entry into the national stage as set forth in § 1.491 or sixteen months from the filing date of the foreign priority application (with the exceptions applicable to applications filed under 35 U.S.C. 111(a)).

With respect to applications filed via the reference filing provision of 35 U.S.C. 111(c) and § 1.57(a), this final rule provides that a certified copy of a foreign previously filed application must be filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the foreign previously filed application, and provides for a reduction of patent term adjustment if a certified copy of a foreign previously filed application is not received within eight months from the date on which the application was filed by reference under 35 U.S.C. 111(a).

As discussed previously, PLT Article 5 and PLTIA 35 U.S.C. 111 should not be viewed as prescribing a best practice for the preparation and filing of a patent application. The reference filing provisions of 35 U.S.C. 111(c) and § 1.57(a) should not be the routine filing practice for an application having a previously filed counterpart application, but rather should be viewed as a safeguard in the situation in which the due date for filing an application is approaching and a copy of the specification and any drawings of the previously filed counterpart application are not available. Thus, the use of the reference filing provisions of 35 U.S.C. 111(c) and § 1.57(a) should be relatively rare. If the specification and any drawings of the previously filed counterpart application are available, an applicant should simply file a copy of the specification and any drawings of the previously filed counterpart application as an application under 35 U.S.C. 111(a) and § 1.53(b). This will avoid the concerns (the previously discussed consequences of mistyping the application number, filing date, or intellectual property authority or country on the application data sheet) inherent in the reference filing provisions of 35 U.S.C. 111(c) and § 1.57(a), and also avoid the requirement in § 1.57(a)(4) to file a certified copy of a foreign previously filed application within the later of four months from the actual filing date of the application or sixteen months from the filing date of the foreign previously filed application, as well as the reduction of patent term adjustment if a certified copy of a foreign previously filed application is not received within eight months from the date on which the application was filed by reference under 35 U.S.C. 111(a).

Section 1.57(a)(4) as adopted in this final rule (and as proposed in the PLT notice of proposed rulemaking) does not require a certified copy of the previously filed application if the previously filed application is an application filed under 35 U.S.C. 111 or 363. The Office has modified § 1.57(a)(4) as adopted in this final rule to also provide that a certified copy of a foreign previously filed application is not required if it is a foreign priority application filed in a participating foreign intellectual property office, and the conditions set forth in § 1.55(h) pertaining to applications claiming priority to a foreign application filed in a participating foreign intellectual property office are met.

The Office is not making the interim copy provision of § 1.55(i) applicable to the requirement for a certified copy of a foreign previously filed application in an application filed by reference under 35 U.S.C. 111(c) and § 1.57(a). As discussed previously, the Office revised § 1.55 in the final rule to implement the first inventor to file provisions of the AIA to require that a certified copy of the foreign application be filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application (with certain exceptions). The Office included this change to ensure that it has a copy of any foreign priority application by the time of eighteen-month publication since U.S. patent application publications (as well as U.S. patents) will have a prior art effect as of the earliest priority date (for subject matter disclosed in the priority application) with respect to applications subject to AIA 35 U.S.C. 102. *See id.* An interim copy under § 1.55(i) is acceptable for meeting this time period requirement in § 1.55(f) because the copy is being used in determining patentability in another application and not in determining the effective filing date of a claimed invention in the application claiming the right of foreign priority. Section 1.55 requires that a certified copy of the foreign priority application be provided when the applicant is relying upon the right of foreign priority in determining the effective filing date of a claimed invention in the application claiming the right of foreign priority. *See id.* at 11054 (to be codified at § 1.55(g)(2)). The requirement for a copy of a foreign previously filed application under § 1.57(a)(4) is to ensure that the copy of the specification and any drawings subsequently provided by the applicant correspond to the specification and any drawings of the foreign previously filed application, which relates to the effective filing date of the claimed invention in the application filed by reference under § 1.57. Thus, the applicant's reliance upon the specification and any drawings of a

foreign previously filed application under § 1.57(a)(4) is comparable to an applicant's reliance upon the specification and any drawings of the prior foreign application for the effective filing date of a claimed invention, which is a situation in which the Office would require a certified copy (and not merely an interim copy) of the priority application. Therefore, the Office is not making the interim copy provision of § 1.55(i) also applicable to the requirement for a certified copy of the priority application under § 1.57(a)(4).

Section 1.57(a)(4) as adopted in this final rule also provides that the applicant may file a petition showing good and sufficient cause for the delay if a certified copy of a foreign previously filed application was not filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application (and the exception pertaining to applications claiming priority to a foreign priority application filed in a participating foreign intellectual property office is not applicable). This provision is designed to avoid a loss of rights for applicants who make a reasonable effort to timely file a certified copy of the foreign previously filed application.

Comment 7: One comment noted the provision in 35 U.S.C. 111(c) (and § 1.57(a)(3)) that if the copy of the specification and any drawings of the previously filed application are not submitted, the application shall be considered as abandoned, and treated as ''having never been filed'' unless revived and the appropriate copies of previously filed application is filed. The comment questioned the effect of the phrase ''treated as having never been filed'' on an application claiming priority to or the benefit of an application filed by reference under § 1.57(a) and requested clarification that this is permitted.

Response: 35 U.S.C. 111(c) provides that ''[a] failure to submit the copy of the specification and any drawings of the previously filed application within the prescribed period shall result in the application being regarded as abandoned'' and that ''[s]uch application shall be treated as having never been filed'' unless the application is revived and a copy of the specification and any drawings of the previously filed application are submitted. The phrase ''treated as having never been filed'' in 35 U.S.C. 111(c) precludes an applicant from claiming priority to or the benefit of such an application as an applicant may not claim priority to or the benefit of an application that had ''never been filed.'' Thus, an applicant may claim priority to or the benefit of an application abandoned under 35 U.S.C. 111(c) and § 1.57(a)(1) or (a)(2) only if the application is revived under § 1.137 and a copy of the specification and any drawings of the previously filed application are submitted to the Office. *See* § 1.137(c) (''[i]n an application abandoned under § 1.57(a), the reply must include a copy of the specification and any drawings of the previously filed application'').

Comment 8: One comment stated that the PLTIA eliminates the provisions for revival of an abandoned application on the basis of unavoidable delay, meaning that any petition for the revival of an abandoned application must be on the basis of unintentional delay, which requires a fee of $1700 ($850 for a small entity). The comment further stated that the PLT does not, however, require elimination of the ''unavoidable'' delay standard.

Response: The PLT does not require elimination of the ''unavoidable'' delay standard (which the Office considers to be a subset of ''unintentional'' delay), but also does not require a Contracting Party to have an ''unavoidable'' delay (or ''due care'') standard. The PLTIA amended 35 U.S.C. 41, 111, 133, 151, 364, and 371 to eliminate the provisions pertaining to revival of an abandoned application or acceptance of a delayed maintenance fee payment on the basis of unavoidable delay, thus providing a single uniform standard for the revival of an abandoned application, acceptance of a delayed maintenance fee payment, acceptance of a delayed priority or benefit claims, and restoration of the right of priority to a foreign application or benefit of a provisional application. This final rule simply implements the changes to 35 U.S.C. 41, 111, 133, 151, 364, and 371 provided for in the PLTIA.

Comment 9: One comment noted that an applicant could pay the lower fee for revival on the basis of unavoidable delay under the former practice, but that an applicant must pay the higher fee for revival on the basis of unintentional delay and request a refund for ''exceptional circumstances'' under the PLTIA. Another comment suggested that the ''exceptional circumstances'' provision of the PLTIA be employed to effectively retain the ''unavoidable'' delay standard (*i.e.,* permitting an applicant to show ''unavoidable'' delay and request a refund for ''exceptional circumstances''). Another comment expressed concern with the absence of an unavoidable delay standard for restoration of priority in international applications on the basis that many major patent offices require that there be a showing of a failure to timely file in spite of due care in order to obtain restoration of priority, and suggested that the Office provide applicants with the option of filing a petition on the basis of ''exceptional circumstances'' which the Office would interpret as meeting the PLT standard of ''failure to timely file in spite of due care.'' The comments also suggested that the rules provide for requests for refund due to the presence of ''exceptional circumstances.''

Response: The PLTIA adopts a single uniform standard (''unintentional'' delay) for the revival of an abandoned application, acceptance of a delayed response by the patent owner in a reexamination proceeding, acceptance of a delayed claim for priority or to the benefit of a prior-filed application, restoration of the right of priority to a foreign application or the benefit of a provisional application, and acceptance of a delayed maintenance fee payment. *See* 35 U.S.C. 27 (''[t]he Director may establish procedures . . . to revive an unintentionally abandoned application for patent, accept an unintentionally delayed payment of the fee for issuing each patent, or accept an unintentionally delayed response by the patent owner in a reexamination proceeding''); 41(c)(1) (''[t]he Director may accept the payment of any maintenance fee . . . if the delay is shown to the satisfaction of the Director to have been unintentional''); 119(a) (''[t]he Director may prescribe regulations . . . pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application in this country within the 12-month period was unintentional''); 119(b)(2) (''[t]he Director may establish procedures . . . to accept an unintentionally delayed claim under this section''); 119(e)(1) (''[t]he Director may prescribe regulations . . . pursuant to which the 12-month period set forth in this subsection may be extended by an additional 2 months if the delay in filing the application under [35 U.S.C.] 111(a) or [35 U.S.C.] 363 within the 12-month period was unintentional''); and 120 (''[t]he Director may establish procedures . . . to accept an unintentionally delayed submission of an amendment under this section'').

As discussed previously, the ''exceptional circumstances'' provision of the PLTIA permits the Office to refund (or waive) the fee specified in 35 U.S.C. 41(a)(7) in situations in which the failure to take the required action or

pay the required fee was due to a widespread disaster. The ''exceptional circumstances'' standard of the PLTIA is not the equivalent of or a substitute for either the former ''unavoidable'' delay standard or the PLT ''in spite of due care'' standard. Since the PLTIA eliminated the ''unavoidable'' delay standard and did not adopt the PLT ''in spite of due care'' standard, the Office does not consider it appropriate to employ the ''exceptional circumstances'' provision of the PLTIA as a backdoor retention of the ''unavoidable'' delay standard or as a mechanism for the Office to opine on whether an applicant has met a standard (the PLT ''in spite of due care'' standard) that is not part of the United States patent laws. Moreover, the Office's costs for treating a petition under the ''in spite of due care'' standard (like the Office's costs for treating a petition under the former ''unavoidable'' delay standard) would far exceed the Office's costs for treating a petition under the ''unintentional'' delay standard provided for in the United States patent laws, and would thus warrant a higher petition fee rather than the reduced petition fee or no petition fee as suggested by the comments.

The International Bureau of the World Intellectual Property Organization (International Bureau) processes requests for restoration of priority under both the ''unintentional'' delay standard and the ''in spite of due care'' standard. Applicants who know at the time of filing of the international application that the priority period has expired and desire treatment under the ''in spite of due care'' standard have the option of filing the international application with the International Bureau as the Receiving Office. Applicants who discover that an international application was filed after the expiration of the priority period and desire treatment under the ''in spite of due care'' standard may request that the application be transferred to the International Bureau as Receiving Office under PCT Rule 19.4. *See April 2007 Revision of Patent Cooperation Treaty Procedure,* 72 FR 51559, 51562 (Sept. 10, 2007).

As the ''exceptional circumstances'' provision of the PLTIA permits the Office to refund (or waive) the fee specified in 35 U.S.C. 41(a)(7) in situations in which the failure to take the required action or pay the required fee was due to a widespread disaster and not in response to petitions from applicants, the Office is not adopting provisions for applicants to request a refund on the basis of there being ''exceptional circumstances.''

Comment 10: Several comments noted that the fee for revival on the basis of unintentional delay was decreased to $1,700 ($850 for a small entity), but that this fee was also made applicable to delayed payments of maintenance fees and the failure to timely file a foreign priority or domestic benefit claim. One comment suggested that this fee change as it applies to the failure to timely file a foreign priority or domestic benefit claim was a considerable increase and should be reconsidered.

Response: As discussed in the PLT notice of proposed rulemaking, the PLTIA amends 35 U.S.C. 41(a)(7), 119(b), 119(e), and 120 to provide that the Office shall charge $1,700.00 on filing each petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the twelve-month period for filing a subsequent application. *See Changes to Implement the Patent Law Treaty,* 78 FR at 21792–93. The changes to the fee for the revival of an abandoned application for a patent, for the delayed payment of the fee for maintaining a patent in force, and for the delayed submission of a priority or benefit claim in this final rule simply implement the changes in the PLTIA.

Comment 11: One comment opposed the elimination of the ''unavoidable'' delay standard on the basis that it would result in a significant fee increase to revive applications abandoned due to catastrophes such as earthquakes and tsunamis.

Response: As discussed previously, the PLTIA contains a provision that permits the Office to refund (or waive) the fee specified in 35 U.S.C. 41(a)(7) in situations in which the failure to take the required action or pay the required fee was due to a widespread disaster, such as an earthquake or tsunami.

Comment 12: One comment stated that under the PLTIA the provisions for revival of an abandoned application on the basis of unintentional delay also applied to a failure to timely pay a maintenance fee or failure to timely file a foreign priority or domestic benefit claim.

Response: The PLTIA adopts a single uniform standard (''unintentional'' delay) for the revival of an abandoned application, acceptance of a delayed maintenance fee payment, and acceptance of a delayed priority or benefit claim. The failure to timely file a foreign priority or domestic benefit claim does not result in abandonment of an application (and thus the need for revival) *per se.* The PLTIA, however, expressly provides that the standard for acceptance of a delayed priority or benefit claim (''unintentional'' delay) is the same as the standard for revival of an abandoned application.

Comment 13: One comment expressed concern about the impact of the provision for the restoration of the right of priority on patent term. The comment suggested that this provision would effectively extend the patent term by up to two months for negligent applicants. The comment suggested that there be appropriate measures (*e.g.,* requirement for a terminal disclaimer) to ensure that an applicant does not benefit by missing the date for filing the subsequent application.

Response: The Office does not consider it necessary to create a complex restoration process to avoid abuse at this time. An applicant's failure to file the subsequent application within the twelve-month period in 35 U.S.C. 119(a) or (e) must have been unintentional. Thus, an applicant who intentionally delays filing the subsequent application will not be able to obtain priority to a prior foreign application under 35 U.S.C. 119(a) or benefit of a prior provisional application under 35 U.S.C. 119(e). In addition, the subsequent application must still be filed within two months of the expiration of the twelve-month period. The Office, however, may consider requirements if it appears that the procedures for restoration of the priority under 35 U.S.C. 119(a) or benefit under 35 U.S.C. 119(e) are being used routinely or are being abused.

Comment 14: One comment stated that the PLTIA uses the phrase ''extending by an additional 2 months,'' rather than terminology more consistent with the PLT such as ''restoration'' or ''reinstatement'' of priority rights. The comment stated that during the PLT discussions at WIPO, there was great criticism of this provision as extending the Paris Convention period from twelve months to fourteen months. The comment further stated that the argument presented at WIPO to accept the provision was that it was not extending the twelve-month Paris Convention period, but rather was reinstating or restoring the right of priority.

Response: The Office does not consider the change to 35 U.S.C. 119(a) in the PLTIA to be an ''extension'' of the twelve-month Paris Convention period.

As discussed previously, the procedures set forth in § 1.55(c) (and 1.78(b)) as adopted in this final rule are for applicants whose delay in filing the subsequent application within the twelve-month time period in 35 U.S.C. 119(a) (or 119(e)(1)) was unintentional, and the use of the additional two-month time period in 35 U.S.C. 119(a) (or 119(e)(1)) as an ''extension of time'' to file the subsequent application would be considered an abuse of the provisions.

Comment 15: Several comments suggested that the Office provide for PCT applications filed in the United States Receiving Office in a language other than English in view of the change to 35 U.S.C. 361(c) to change ''International applications filed in the Patent and Trademark Office shall be in the English language'' to ''International applications filed in the Patent and Trademark Office shall be filed in the English language, or an English translation shall be filed within such later time as may be fixed by the Director.''

Response: The PLTIA amends 35 U.S.C. 361(c) to authorize the Office to allow the filing of PCT applications in a language other than English if an English-language translation of the PCT application is filed within the period specified by the Office. In U.S. national practice for applications filed under 35 U.S.C. 111(a) in a language other than English, the Office requires an English-language translation of the non-English-language application and conducts all subsequent processing and examination of the application using the English-language translation and not the initial non-English-language application. Unlike U.S. national practice for applications filed under 35 U.S.C. 111(a), the PCT and PCT Regulations provide for a Receiving Office to review PCT applications (the PCT application as filed, and not any subsequent translation of the PCT application) for errors (*e.g.,* review the description to determine whether it refers to drawings that are not present) (PCT Article 14 and PCT Rules 20 and 25), and to process requests for incorporation by reference in PCT applications (PCT Rule 20.6), and other amendments and corrections to PCT applications (PCT Rule 26). There is no provision in the PCT that provides for the filing of an application in one language for the purpose of establishing a filing date, and the later filing of a translation of such application for the purpose of subsequent review and processing by the Receiving Office. The United States Receiving Office is simply not currently capable of conducting the review and processing required by the PCT for PCT applications filed in a language other than English. Creating a procedure under the PCT to provide for the initial filing of a non-English-language PCT application and later filing of an English-language translation for the purpose of subsequent review and processing would, under the provisions of the PCT and PCT Regulations, result in the resetting of the International Filing Date to the later date of submission of the English-language translation of the non-English-language PCT application. Therefore, to avoid the loss of a filing date for a PCT application in a language other than English deposited with the United States Receiving Office, the Office will continue to apply the current process under PCT Rule 19.4 of transmitting such a PCT application to the International Bureau for processing in its capacity as a Receiving Office, which will avoid the loss of a filing date as long as the PCT application is in a language accepted under PCT Rule 12.1(a) by the International Bureau as a Receiving Office. *See* MPEP 1805.

Comment 16: One comment suggested that the word ''also'' in § 1.78(a)(4) and (c)(3) (two occurrences in each paragraph) (§ 1.78(a)(4) and (d)(3) as adopted in this final rule) is confusing and redundant.

Response: 35 U.S.C. 119(e) and 120 each require that the specific reference to the prior-filed application be submitted at such time during the pendency of the application as required by the Director. Sections 1.78(a)(4) and 1.78(d)(3), therefore, require that the specific reference to the prior-filed application be submitted during the pendency of the application as is expressly required by 35 U.S.C. 119(e) and 120, and also require that the specific reference to the prior-filed application be submitted within the four-month or sixteen-month time frame as is authorized by 35 U.S.C. 119(e) and 120.

Comment 17: One comment suggested that the phrase ''for the patent'' should read ''for the application'' or be deleted in both occurrences in §§ 1.53(f)(3)(ii) and 1.495(c)(3)(ii).

Response: The phrase ''issue fee for the patent'' tracks the language of 35 U.S.C. 115(f) as amended by the AIA Technical Corrections Act.

Comment 18: One comment suggested that the requirement that any petition for reconsideration of a decision refusing to accept a maintenance fee be accompanied by the petition fee set forth in § 1.17(f) should be deleted for consistency with the change to § 1.17(f).

Response: Section 1.378(d) as adopted in this final rule does not include the requirement for the petition fee under § 1.17(f) for a request for reconsideration of a maintenance fee decision.

Comment 19: Several comments suggested that § 1.704(f) be clarified to indicate that the phrase ''in compliance with'' in connection with the application papers, drawings, translations, and sequence listings applies to preexamination requirements and does not apply to corrections required by examiners.

Response: Section 1.704(f) as adopted in this final rule provides that an application shall be considered as having papers in compliance with § 1.52, drawings (if any) in compliance with § 1.84, and a sequence listing in compliance with § 1.821 through § 1.825 (if applicable) for purposes of § 1.704(f) on the filing date of the latest reply (if any) correcting the papers, drawings, or sequence listing that is prior to the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first. Thus, the patent term adjustment reduction provision of § 1.704(c)(12) would not apply to a correction of the application papers, drawings, or sequence listing that is required by an examiner (*i.e.,* would not apply to corrections that take place after the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151).

Comment 20: One comment noted that the PLTIA amends 35 U.S.C. 261 to provide for a ''register of interests in applications for patents and patents,'' but that the PLTIA does not specify the scope of an ''interest.'' The comment requests guidance on the scope of these interests as well as what is necessary to have these interests recorded.

Response: The Office currently records assignments, licenses, security agreements, and other interests in patents and patent applications, but the recording of such a document is not a determination of the effect the document has on the ownership of the patent or even the validity of the document. *See* MPEP 301. Pre-PLTIA 35 U.S.C. 261 applied to ''applications for patent, patents, or any interest therein.'' The Office does not view the PLTIA as changing the meaning of the term ''interest'' as used in 35 U.S.C. 261.

Comment 21: Several comments suggested that the Office should move from the ''independent and distinct'' restriction standard of 35 U.S.C. 121 to the PCT ''unity of invention'' standard.

Response: As discussed in the PLT notice of proposed rulemaking, the Office is in the process of studying the

changes to the patent statute, regulations, examination practices, and filing fees that would be necessary to move from the ''independent and distinct'' restriction standard of 35 U.S.C. 121 to the ''unity of invention'' standard of PCT Rule 13 in a practical manner.

Rulemaking Considerations

A. Administrative Procedure Act

This rulemaking implements the PLT and title II of the PLTIA. The changes in this rulemaking (except for the change to the patent term adjustment provisions of 37 CFR 1.704) are to revise application filing and prosecution procedures to conform to the changes in title II of the PLTIA and section 1(f) of the AIA Technical Corrections Act, to eliminate procedural requirements to ensure that the rules of practice are consistent with the PLT, and to make minor changes pertaining to the supplemental examination, inventor's oath or declaration, and first inventor to file provisions of the AIA. Therefore, the changes in this rulemaking (except for the change to the patent term adjustment provisions of 37 CFR 1.704) involve rules of agency practice and procedure and/or interpretive rules. *See Bachow Commc'ns Inc.* v. *F.C.C.,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims); *Nat'l Org. of Veterans' Advocates, Inc.* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive).

Accordingly, prior notice and opportunity for public comment were not required pursuant to 5 U.S.C. 553(b) or (c) (or any other law), except for the change to the patent term adjustment provisions of 37 CFR 1.704. *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'') (quoting 5 U.S.C. 553(b)(A)). The Office, however, published proposed changes for comment as it sought the benefit of the public's views on the Office's proposed implementation of the PLT and title II of the PLTIA and section 1(f) of the AIA Technical Corrections Act.

B. Regulatory Flexibility Act

For the reasons set forth herein, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes in this final rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). The proposed rule described a similar certification at that time by the Deputy General Counsel for General Law, and no comments were received.

As noted in the notice of proposed rulemaking, the primary changes in this rulemaking are to revise application filing and prosecution procedures to conform to the changes in title II of the PLTIA and eliminate procedural requirements to ensure that the rules of practice are consistent with the PLT.

The notable changes in the PLT and title II of the PLTIA pertain to: (1) The filing date requirements for a patent application; (2) the restoration of patent rights via the revival of abandoned applications and acceptance of delayed maintenance fee payments; and (3) the restoration of the right of priority to a foreign application or the benefit of a provisional application in a subsequent application filed within two months of the expiration of the twelve-month period (six-month period for design applications) for filing such a subsequent application.

The requirements and fees for filing of an application without a claim track the existing provisions in 37 CFR 1.53(f) for an application that is missing application components not required for a filing date. The requirements and fees for filing of an application ''by reference'' to a previously filed application in lieu of filing the specification and drawings (reference filing) are simpler than the existing requirements in 37 CFR 1.57(a) that apply when relying upon the specification and drawings of a prior-filed application as the specification and drawings of an application.

The requirements for a petition to revive an abandoned application (37 CFR 1.137) or accept a delayed maintenance fee payment (37 CFR 1.378) on the basis of ''unintentional'' delay are the pre-existing requirements for a petition to revive an abandoned application or accept a delayed maintenance fee payment. PLTIA 35 U.S.C. 41(a)(7) and (c)(1) set the petition fee amount for a petition to accept a delayed maintenance fee payment at an amount equal to the fee for a petition to revive an unintentionally abandoned application, which is comparable to the pre-existing surcharge for accepting an unintentionally delayed maintenance fee payment.

The requirements and fees for a petition to restore the right of priority to a prior-filed foreign application or a petition to restore the right to benefit of a prior-filed provisional application correspond to the pre-existing requirements for petitions based upon unintentional delay (*i.e.,* a petition to revive an abandoned application (37 CFR 1.137) or accept a delayed maintenance fee payment (37 CFR 1.378)). PLTIA 35 U.S.C. 41(a)(7) and 119 set the petition fee amount for a petition to restore the right of priority to a prior-filed foreign application or a petition to restore the right to benefit of a prior-filed provisional application at an amount equal to the fee for a petition to revive an unintentionally abandoned application. Prior to the PLTIA, 35 U.S.C. 119 did not permit an applicant who missed the filing period requirement in 35 U.S.C. 119(a) or (e) to restore the right of priority to the prior-filed foreign application or restore the right to benefit of the prior-filed provisional application.

The changes to the patent term adjustment reduction provisions do not impose any additional burden on applicants. The change to 37 CFR 1.704(c) simply specifies that the failure to place an application in condition for examination within eight months from the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. This change will not have a significant economic impact on a substantial number of small entities because: (1) Applicants already have to place an application in a condition for examination; (2) applicants are not entitled to patent term adjustment for examination delays that result from an applicant's delay in prosecuting the application (35 U.S.C. 154(b)(2)(C)(i) and 37 CFR 1.704(a)); and (3) applicants may avoid any consequences from this provision simply by placing the application in condition for examination within eight months from the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application.

For the foregoing reasons, the changes in this final rule will not have a

significant economic impact on a substantial number of small entities.

C. Executive Order 12866 (Regulatory Planning and Review)

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review)

The Office has complied with Executive Order 13563. Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13132 (Federalism)

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

F. Executive Order 13175 (Tribal Consultation)

This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

G. Executive Order 13211 (Energy Effects)

This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

H. Executive Order 12988 (Civil Justice Reform)

This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

I. Executive Order 13045 (Protection of Children)

This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

J. Executive Order 12630 (Taking of Private Property)

This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

K. Congressional Review Act

Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the United States Patent and Trademark Office will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rule are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rule is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

L. Unfunded Mandates Reform Act of 1995

The changes set forth in this rule do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. National Environmental Policy Act

This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. National Technology Transfer and Advancement Act

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions which involve the use of technical standards.

O. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This final rule involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3549).

The notable changes in the PLT and title II of the PLTIA pertain to: (1) The filing date requirements for a patent application; (2) the restoration of patent rights via the revival of abandoned applications and acceptance of delayed maintenance fee payments; and (3) the restoration of the right of priority to a foreign application or the benefit of a provisional application in a subsequent application filed within two months of the expiration of the twelve-month period (six-month period for design applications) for filing such a subsequent application.

The information collection requirements pertaining to petitions to accept a delayed maintenance fee payment have been reviewed and approved by the OMB under OMB control number 0651–0016. The information collection requirements pertaining to patent term adjustment have been reviewed and approved by the OMB under OMB control number 0651–0020. The information collection requirements pertaining to recording assignments (and other interests) in patents and patent applications have been reviewed and approved by the OMB under OMB control number 0651–0027. The information collection requirements pertaining to petitions to revive an abandoned application have been reviewed and approved by the OMB under OMB control number 0651–0031. The information collection requirements pertaining to the

specification (including claims) and drawings required for a patent application have been reviewed and approved by the OMB under OMB control number 0651–0032. The information collection requirements pertaining to representative and correspondence address have been reviewed and approved by the OMB under OMB control number 0651–0035. The changes in this final rule pertaining to petitions to accept a delayed maintenance fee payment, patent term adjustment, petitions to revive an abandoned application, the specification (including claims) and drawings required for a patent application, and representative and correspondence address, do not propose to add any additional requirements (including information collection requirements) or fees for patent applicants or patentees. Therefore, the Office did not resubmit information collection packages to OMB for its review and approval because the changes in this final rule do not affect the information collection requirements associated with the information collections approved under OMB control numbers 0651–0016, 0651–0020, 0651–0027, 0651–0031, 0651–0032, and 0651–0035.

This final rule also provides for the optional use by applicants of the following Patent Law Treaty Model International Forms: (1) Model International Request Form; (2) Model International Power of Attorney Form; (3) Model International Request for Recordation of Change in Name or Address Form; (4) Model International Request for Correction of Mistakes Form; (5) Model International Request for Recordation of Change in Applicant or Owner Form; (6) Model International Certificate of Transfer Form; (7) Model International Request for Recordation of a License/Cancellation of the Recordation of a License Form; and (8) Model International Request for Recordation of a Security Interest/Cancellation of the Recordation of a Security Interest Form. This final rule also requires revisions to the pre-printed information on the forms for petitions to accept a delayed maintenance fee payment and petitions to revive an abandoned application (PTO/SB/64, PTO/SB/64a, PTO/SB/66) and elimination of the forms for petitions based upon unavoidable delay (PTO/SB/61 and PTO/SB/65) in the information collections approved under OMB control numbers 0651–0016 and 0651–0031. The Office is submitting a change worksheet to OMB to add these Patent Law Treaty Model International Forms and form revisions to the information collections approved under OMB control numbers 0651–0016, 0651–0020, 0651–0027, 0651–0031, 0651–0032, and 0651–0035.

This final rule adds petitions to restore the right of priority to a prior-filed foreign application or a petition to restore the right to benefit of a prior-filed provisional application. The Office submitted a proposed information collection to OMB for its review and approval when the notice of proposed rulemaking was published. The Office also published the title, description, and respondent description of the information collection, with an estimate of the annual reporting burdens, in the notice of proposed rulemaking. *See Changes to Implement the Patent Law Treaty,* 78 FR at 21802–03. The Office did not receive any comments on this proposed information collection, and the changes adopted in this final rule do not require any change to the proposed information collection. Accordingly, the Office has resubmitted the proposed revision to the information collection to OMB. The proposed information collection is available at OMB's Information Collection Review Web site: *www.reginfo.gov/public/do/PRAMain.*

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 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 3

Administrative practice and procedure, Inventions and patents, Trademarks.

37 CFR Part 11

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 37 CFR parts 1, 3, and 11 are amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

■ 2. Section 1.1 is amended by revising paragraph (c) to read as follows:

§ 1.1 Addresses for non-trademark correspondence with the United States Patent and Trademark Office.

* * * * *

(c) *For reexamination or supplemental examination proceedings.* (1) All correspondence concerning *ex parte* reexamination, other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 102.4 of this chapter, should be additionally marked ''Mail Stop *Ex Parte* Reexam.''

(2) All correspondence concerning *inter partes* reexamination, other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 102.4 of this chapter, should be additionally marked ''Mail Stop *Inter Partes* Reexam.''

(3) Requests for supplemental examination (original and corrected request papers) and any other paper filed in a supplemental examination proceeding, should be additionally marked ''Mail Stop Supplemental Examination.''

(4) All correspondence concerning a reexamination proceeding ordered as a result of a supplemental reexamination proceeding, other than correspondence to the Office of the General Counsel pursuant to § 1.1(a)(3) and § 102.4 of this chapter should be additionally marked ''Mail Stop *Ex Parte* Reexam.''

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■ 3. Section 1.4 is amended by revising paragraphs (a)(2), (c), and (d) to read as follows:

§ 1.4 Nature of correspondence and signature requirements.

(a) * * *

(2) *Correspondence in and relating to a particular application or other proceeding in the Office.* See particularly the rules relating to the filing, processing, or other proceedings of national applications in subpart B, §§ 1.31 to 1.378; of international applications in subpart C, §§ 1.401 to 1.499; of *ex parte* reexaminations of patents in subpart D, §§ 1.501 to 1.570; of supplemental examination of patents in subpart E, §§ 1.601 to 1.625; of extension of patent term in subpart F, §§ 1.710 to 1.785; of *inter partes* reexaminations of patents in subpart H, §§ 1.902 to 1.997; and of the Patent Trial and Appeal Board in parts 41 and 42 of this chapter.

* * * * *

(c) Since different matters may be considered by different branches or

sections of the Office, each distinct subject, inquiry, or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects. Subjects provided for on a single Office or World Intellectual Property Organization form may be contained in a single paper.

(d)(1) *Handwritten signature.* Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (d)(4), (e), and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:

(i) Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or

(ii) Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

(2) *S-signature.* An S-signature is a signature inserted between forward slash marks, but not a handwritten signature as defined by paragraph (d)(1) of this section. An S-signature includes any signature made by electronic or mechanical means, and any other mode of making or applying a signature other than a handwritten signature as provided for in paragraph (d)(1) of this section. Correspondence being filed in the Office in paper, by facsimile transmission as provided in § 1.6(d), or via the Office electronic filing system as an attachment as provided in § 1.6(a)(4), for a patent application, patent, or a reexamination or supplemental examination proceeding may be S-signature signed instead of being personally signed (*i.e.,* with a handwritten signature) as provided for in paragraph (d)(1) of this section. The requirements for an S-signature under this paragraph (d)(2) of this section are as follows.

(i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (*e.g.,*/Dr. James T. Jones, Jr./); and

(ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character may not be used in an S-signature.

(iii) The signer's name must be:

(A) Presented in printed or typed form preferably immediately below or adjacent the S-signature, and

(B) Reasonably specific enough so that the identity of the signer can be readily recognized.

(3) *Electronically submitted correspondence.* Correspondence permitted via the Office electronic filing system may be signed by a graphic representation of a handwritten signature as provided for in paragraph (d)(1) of this section or a graphic representation of an S-signature as provided for in paragraph (d)(2) of this section when it is submitted via the Office electronic filing system.

(4) *Certifications*—(i) *Certification as to the paper presented.* The presentation to the Office (whether by signing, filing, submitting, or later advocating) of any paper by a party, whether a practitioner or non-practitioner, constitutes a certification under § 11.18(b) of this subchapter. Violations of § 11.18(b)(2) of this subchapter by a party, whether a practitioner or non-practitioner, may result in the imposition of sanctions under § 11.18(c) of this subchapter. Any practitioner violating § 11.18(b) of this subchapter may also be subject to disciplinary action. See § 11.18(d) of this subchapter.

(ii) *Certification as to the signature.* The person inserting a signature under paragraph (d)(2) or (d)(3) of this section in a document submitted to the Office certifies that the inserted signature appearing in the document is his or her own signature. A person submitting a document signed by another under paragraph (d)(2) or (d)(3) of this section is obligated to have a reasonable basis to believe that the person whose signature is present on the document was actually inserted by that person, and should retain evidence of authenticity of the signature. Violations of the certification as to the signature of another or a person's own signature as set forth in this paragraph may result in the imposition of sanctions under § 11.18(c) and (d) of this chapter.

(5) *Forms.* The Office provides forms for the public to use in certain situations to assist in the filing of correspondence for a certain purpose and to meet certain requirements for patent applications and proceedings. Use of the forms for purposes for which they were not designed is prohibited. No changes to certification statements on the Office forms (*e.g.,* oath or declaration forms, terminal disclaimer forms, petition forms, and nonpublication request forms) may be made. The existing text of a form, other than a certification statement, may be modified, deleted, or added to, if all text identifying the form as an Office form is removed. The presentation to the Office (whether by signing, filing, submitting, or later advocating) of any Office form with text identifying the form as an Office form by a party, whether a practitioner or non-practitioner, constitutes a certification under § 11.18(b) of this chapter that the existing text and any certification statements on the form have not been altered other than permitted by EFS-Web customization.

* * * * *

■ 4. Section 1.5 is amended by revising paragraph (d) to read as follows:

§ 1.5 Identification of patent, patent application, or patent-related proceeding.

* * * * *

(d) A letter relating to a reexamination or supplemental examination proceeding should identify it as such by the number of the patent undergoing reexamination or supplemental examination, the request control number assigned to such proceeding, and, if known, the group art unit and name of the examiner to which it been assigned.

* * * * *

■ 5–6. Section 1.6 is amended by revising paragraph (d) to read as follows:

§ 1.6 Receipt of correspondence.

* * * * *

(d) *Facsimile transmission.* Except in the cases enumerated below, correspondence, including authorizations to charge a deposit account, may be transmitted by facsimile. The receipt date accorded to the correspondence will be the date on which the complete transmission is received in the United States Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. See paragraph (a)(3) of this section. To facilitate proper processing, each transmission session should be limited to correspondence to be filed in a single application or other proceeding before the United States Patent and Trademark Office. The application number of a patent application, the control number of a reexamination or supplemental examination proceeding, the interference number of an interference proceeding, the trial number of a trial proceeding before the Board, or the

patent number of a patent should be entered as a part of the sender's identification on a facsimile cover sheet. Facsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt in the following situations:

(1) Correspondence as specified in § 1.4(e), requiring an original signature;

(2) Certified documents as specified in § 1.4(f);

(3) Correspondence which cannot receive the benefit of the certificate of mailing or transmission as specified in § 1.8(a)(2)(i)(A) through (D), (F), and (I), and § 1.8(a)(2)(iii)(A), except that a continued prosecution application under § 1.53(d) may be transmitted to the Office by facsimile;

(4) Color drawings submitted under §§ 1.81, 1.83 through 1.85, 1.152, 1.165, 1.173, or 1.437;

(5) A request for reexamination under § 1.510 or § 1.913, or a request for supplemental examination under § 1.610;

(6) Correspondence to be filed in a patent application subject to a secrecy order under §§ 5.1 through 5.5 of this chapter and directly related to the secrecy order content of the application;

(7) In contested cases and trials before the Patent Trial and Appeal Board, except as the Board may expressly authorize.

* * * * *

■ 7. Section 1.7 is amended by revising paragraph (a) to read as follows:

§ 1.7 Times for taking action; Expiration on Saturday, Sunday or Federal holiday.

(a) Whenever periods of time are specified in this part in days, calendar days are intended. When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday. See § 90.3 of this chapter for time for appeal or for commencing civil action.

* * * * *

■ 8. Section 1.16 is amended by revising paragraph (f) to read as follows:

§ 1.16 National application filing, search, and examination fees.

* * * * *

(f) Surcharge for filing the basic filing fee, search fee, examination fee, or inventor's oath or declaration on a date later than the filing date of the application, an application that does not contain at least one claim on the filing date of the application, or an application filed by reference to a previously filed application under § 1.57(a), except provisional applications:

By a micro entity (§ 1.29)	$35.00
By a small entity (§ 1.27(a))	70.00
By other than a small or micro entity	140.00

* * * * *

■ 9. Section 1.17 is amended by revising paragraphs (f), (g), (m), and (p), adding new paragraph (o), and removing and reserving paragraphs (l) and (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

* * * * *

(f) For filing a petition under one of the following sections which refers to this paragraph:

By a micro entity (§ 1.29)	$100.00
By a small entity (§ 1.27(a))	200.00
By other than a small or micro entity	400.00

§ 1.36(a)—for revocation of a power of attorney by fewer than all of the applicants.

§ 1.53(e)—to accord a filing date.

§ 1.182—for decision on a question not specifically provided for in an application for patent.

§ 1.183—to suspend the rules in an application for patent.

§ 1.741(b)—to accord a filing date to an application under § 1.740 for extension of a patent term.

(g) For filing a petition under one of the following sections which refers to this paragraph: $200.00

§ 1.12—for access to an assignment record.

§ 1.14—for access to an application.

§ 1.46—for filing an application on behalf of an inventor by a person who otherwise shows sufficient proprietary interest in the matter.

§ 1.55(f)—for filing a belated certified copy of a foreign application.

§ 1.57(a)—for filing a belated certified copy of a foreign application.

§ 1.59—for expungement of information.

§ 1.103(a)—to suspend action in an application.

§ 1.136(b)—for review of a request for extension of time when the provisions of § 1.136(a) are not available.

§ 1.377—for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.

§ 1.550(c)—for patent owner requests for extension of time in *ex parte* reexamination proceedings.

§ 1.956—for patent owner requests for extension of time in *inter partes* reexamination proceedings.

§ 5.12—for expedited handling of a foreign filing license.

§ 5.15—for changing the scope of a license.

§ 5.25—for retroactive license.

* * * * *

(l) [Reserved]

(m) For filing a petition for the revival of an abandoned application for a patent, for the delayed payment of the fee for issuing each patent, for the delayed response by the patent owner in any reexamination proceeding, for the delayed payment of the fee for maintaining a patent in force, for the delayed submission of a priority or benefit claim, or for the extension of the twelve-month (six-month for designs) period for filing a subsequent application (§§ 1.55(c), 1.55(e), 1.78(b), 1.78(c), 1.78(e), 1.137, 1.378, and 1.452):

By a small entity (§ 1.27(a)) or micro entity (§ 1.29)	$850.00
By other than a small or micro entity	1,700.00

* * * * *

(o) For every ten items or fraction thereof in a third-party submission under § 1.290:

By a small entity (§ 1.27(a)) or micro entity (§ 1.29)	$90.00
By other than a small entity ...	180.00

(p) For an information disclosure statement under § 1.97(c) or (d):

By a micro entity (§ 1.29)	$45.00
By a small entity (§ 1.27(a))	90.00
By other than a small or micro entity	180.00

* * * * *

(t) [Reserved]

■ 10. Section 1.20 is amended by removing and reserving paragraph (i).

§ 1.20 Post issuance fees.

* * * * *

(i) [Reserved]

* * * * *

■ 11. Section 1.23 is amended by adding a new paragraph (c) to read as follows:

§ 1.23 Methods of payment.

* * * * *

(c) A fee transmittal letter may be signed by a juristic applicant or patent owner.

■ 12. Section 1.25 is amended by revising paragraph (b) to read as follows:

§ 1.25 Deposit accounts.

* * * * *

(b) Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts if sufficient funds are on deposit to cover such fees. A general authorization to charge all fees,

or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with a particular paper filed. An authorization to charge fees under § 1.16 in an international application entering the national stage under 35 U.S.C. 371 will be treated as an authorization to charge fees under § 1.492. An authorization to charge fees set forth in § 1.18 to a deposit account is subject to the provisions of § 1.311(b). An authorization to charge to a deposit account the fee for a request for reexamination pursuant to § 1.510 or § 1.913 and any other fees required in a reexamination proceeding in a patent may also be filed with the request for reexamination, and an authorization to charge to a deposit account the fee for a request for supplemental examination pursuant to § 1.610 and any other fees required in a supplemental examination proceeding in a patent may also be filed with the request for supplemental examination. An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective unless sufficient funds are present in the account to cover the fee.

* * * * *

■ 13. Section 1.29 is amended by revising paragraphs (e) and (k)(4) to read as follows:

§ 1.29 Micro entity status.

* * * * *

(e) Micro entity status is established in an application by filing a micro entity certification in writing complying with the requirements of either paragraph (a) or paragraph (d) of this section and signed either in compliance with § 1.33(b) or in an international application filed in a Receiving Office other than the United States Receiving Office by a person authorized to represent the applicant under § 1.455. Status as a micro entity must be specifically established in each related, continuing and reissue application in which status is appropriate and desired. Status as a micro entity in one application or patent does not affect the status of any other application or patent, regardless of the relationship of the applications or patents. The refiling of an application under § 1.53 as a continuation, divisional, or continuation-in-part application (including a continued prosecution application under § 1.53(d)), or the filing of a reissue application, requires a new certification of entitlement to micro entity status for the continuing or reissue application.

* * * * *

(k) * * *

(4) Any deficiency payment (based on a previous erroneous payment of a micro entity fee) submitted under this paragraph will be treated as a notification of a loss of entitlement to micro entity status under paragraph (i) of this section.

■ 14. Section 1.33 is amended by revising paragraph (c) to read as follows:

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

* * * * *

(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination or supplemental examination proceeding will be directed to the correspondence address in the patent file. Amendments filed in a reexamination proceeding, and other papers filed in a reexamination or supplemental examination proceeding, on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken.

* * * * *

■ 15. Section 1.51 is amended by revising paragraph (a) to read as follows:

§ 1.51 General requisites of an application.

(a) Applications for patents must be made to the Director of the United States Patent and Trademark Office. An application transmittal letter limited to the transmittal of the documents and fees comprising a patent application under this section may be signed by a juristic applicant or patent owner.

* * * * *

■ 16. Section 1.52 is amended by revising paragraphs (a), (b), and (e) to read as follows:

§ 1.52 Language, paper, writing, margins, compact disc specifications.

(a) *Papers that are to become a part of the permanent United States Patent and Trademark Office records in the file of a patent application, or a reexamination or supplemental examination proceeding.* (1) All papers, other than drawings, that are submitted on paper or by facsimile transmission, and are to become a part of the permanent United States Patent and Trademark Office records in the file of a patent application or reexamination or supplemental examination proceeding, must be on sheets of paper that are the same size, not permanently bound together, and:

(i) Flexible, strong, smooth, non-shiny, durable, and white;

(ii) Either 21.0 cm by 29.7 cm (DIN size A4) or 21.6 cm by 27.9 cm (8½ by 11 inches), with each sheet including a top margin of at least 2.0 cm (¾ inch), a left side margin of at least 2.5 cm (1 inch), a right side margin of at least 2.0 cm (¾ inch), and a bottom margin of at least 2.0 cm (¾ inch);

(iii) Written on only one side in portrait orientation;

(iv) Plainly and legibly written either by a typewriter or machine printer in permanent dark ink or its equivalent; and

(v) Presented in a form having sufficient clarity and contrast between the paper and the writing thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo-offset, and microfilming processes and electronic capture by use of digital imaging and optical character recognition.

(2) All papers that are submitted on paper or by facsimile transmission and are to become a part of the permanent records of the United States Patent and Trademark Office should have no holes in the sheets as submitted.

(3) The provisions of this paragraph and paragraph (b) of this section do not apply to the pre-printed information on paper forms provided by the Office, or to the copy of the patent submitted on paper in double column format as the specification in a reissue application or request for reexamination.

(4) See § 1.58 for chemical and mathematical formulae and tables, and § 1.84 for drawings.

(5) Papers that are submitted electronically to the Office must be formatted and transmitted in compliance with the Office's electronic filing system requirements.

(b) *The application (specification, including the claims, drawings, and the inventor's oath or declaration) or reexamination or supplemental examination proceeding, any amendments to the application or reexamination proceeding, or any corrections to the application, or reexamination or supplemental examination proceeding.* (1) The application or proceeding and any amendments or corrections to the application (including any translation

submitted pursuant to paragraph (d) of this section) or proceeding, except as provided for in § 1.69 and paragraph (d) of this section, must:

(i) Comply with the requirements of paragraph (a) of this section; and

(ii) Be in the English language or be accompanied by a translation of the application and a translation of any corrections or amendments into the English language together with a statement that the translation is accurate.

(2) The specification (including the abstract and claims) for other than reissue applications and reexamination or supplemental examination proceedings, and any amendments for applications (including reissue applications) and reexamination proceedings to the specification, except as provided for in §§ 1.821 through 1.825, must have:

(i) Lines that are 1½ or double spaced;

(ii) Text written in a nonscript type font (*e.g.,* Arial, Times Roman, or Courier, preferably a font size of 12) lettering style having capital letters which should be at least 0.3175 cm. (0.125 inch) high, but may be no smaller than 0.21 cm. (0.08 inch) high (*e.g.,* a font size of 6); and

(iii) Only a single column of text.

(3) The claim or claims must commence on a separate physical sheet or electronic page (§ 1.75(h)).

(4) The abstract must commence on a separate physical sheet or electronic page or be submitted as the first page of the patent in a reissue application or reexamination or supplemental examination proceeding (§ 1.72(b)).

(5) Other than in a reissue application or a reexamination or supplemental examination proceeding, the pages of the specification including claims and abstract must be numbered consecutively, starting with 1, the numbers being centrally located above or preferably, below, the text.

(6) Other than in a reissue application or reexamination or supplemental examination proceeding, the paragraphs of the specification, other than in the claims or abstract, may be numbered at the time the application is filed, and should be individually and consecutively numbered using Arabic numerals, so as to unambiguously identify each paragraph. The number should consist of at least four numerals enclosed in square brackets, including leading zeros (*e.g.,* [0001]). The numbers and enclosing brackets should appear to the right of the left margin as the first item in each paragraph, before the first word of the paragraph, and should be highlighted in bold. A gap, equivalent to approximately four spaces, should follow the number. Nontext elements (*e.g.,* tables, mathematical or chemical formulae, chemical structures, and sequence data) are considered part of the numbered paragraph around or above the elements, and should not be independently numbered. If a nontext element extends to the left margin, it should not be numbered as a separate and independent paragraph. A list is also treated as part of the paragraph around or above the list, and should not be independently numbered. Paragraph or section headers (titles), whether abutting the left margin or centered on the page, are not considered paragraphs and should not be numbered.

* * * * *

(e) *Electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application, or reexamination or supplemental examination proceeding.* (1) The following documents may be submitted to the Office on a compact disc in compliance with this paragraph:

(i) A computer program listing (see § 1.96);

(ii) A ''Sequence Listing'' (submitted under § 1.821(c)); or

(iii) Any individual table (see § 1.58) if the table is more than 50 pages in length, or if the total number of pages of all the tables in an application exceeds 100 pages in length, where a table page is a page printed on paper in conformance with paragraph (b) of this section and § 1.58(c).

(2) A compact disc as used in this part means a Compact Disc-Read Only Memory (CD–ROM) or a Compact Disc-Recordable (CD–R) in compliance with this paragraph. A CD–ROM is a ''read-only'' medium on which the data is pressed into the disc so that it cannot be changed or erased. A CD–R is a ''write once'' medium on which once the data is recorded, it is permanent and cannot be changed or erased.

(3)(i) Each compact disc must conform to the International Organization for Standardization (ISO) 9660 standard, and the contents of each compact disc must be in compliance with the American Standard Code for Information Interchange (ASCII).

(ii) Each compact disc must be enclosed in a hard compact disc case within an unsealed padded and protective mailing envelope and accompanied by a transmittal letter on paper in accordance with paragraph (a) of this section. The transmittal letter must list for each compact disc the machine format (*e.g.,* IBM–PC, Macintosh), the operating system compatibility (*e.g.,* MS–DOS, MS-Windows, Macintosh, Unix), a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret (*e.g.,* tables in landscape orientation should be identified as landscape orientation or be identified when inquired about) the information on the compact disc. Compact discs submitted to the Office will not be returned to the applicant.

(4) Any compact disc must be submitted in duplicate unless it contains only the ''Sequence Listing'' in computer readable form required by § 1.821(e). The compact disc and duplicate copy must be labeled ''Copy 1'' and ''Copy 2,'' respectively. The transmittal letter which accompanies the compact disc must include a statement that the two compact discs are identical. In the event that the two compact discs are not identical, the Office will use the compact disc labeled ''Copy 1'' for further processing. Any amendment to the information on a compact disc must be by way of a replacement compact disc in compliance with this paragraph containing the substitute information, and must be accompanied by a statement that the replacement compact disc contains no new matter. The compact disc and copy must be labeled ''COPY 1 REPLACEMENT MM/DD/YYYY'' (with the month, day and year of creation indicated), and ''COPY 2 REPLACEMENT MM/DD/YYYY,'' respectively.

(5) The specification must contain an incorporation-by-reference of the material on the compact disc in a separate paragraph (§ 1.77(b)(5)), identifying each compact disc by the names of the files contained on each of the compact discs, their date of creation and their sizes in bytes. The Office may require applicant to amend the specification to include in the paper portion any part of the specification previously submitted on compact disc.

(6) A compact disc must also be labeled with the following information:

(i) The name of each inventor (if known);

(ii) Title of the invention;

(iii) The docket number, or application number if known, used by the person filing the application to identify the application;

(iv) A creation date of the compact disc;

(v) If multiple compact discs are submitted, the label shall indicate their order (*e.g.,* ''1 of X''); and

(vi) An indication that the disc is ''Copy 1'' or ''Copy 2'' of the

submission. See paragraph (b)(4) of this section.

(7) If a file is unreadable on both copies of the disc, the unreadable file will be treated as not having been submitted. A file is unreadable if, for example, it is of a format that does not comply with the requirements of paragraph (e)(3) of this section, it is corrupted by a computer virus, or it is written onto a defective compact disc.

* * * * *

■ 17. Section 1.53 is amended by revising paragraphs (b), (c), and (f) to read as follows:

§ 1.53 Application number, filing date, and completion of application.

* * * * *

(b) *Application filing requirements—Nonprovisional application.* The filing date of an application for patent filed under this section, other than an application for a design patent or a provisional application under paragraph (c) of this section, is the date on which a specification, with or without claims, is received in the Office. The filing date of an application for a design patent filed under this section, except for a continued prosecution application under paragraph (d) of this section, is the date on which the specification as prescribed by 35 U.S.C. 112, including at least one claim, and any required drawings are received in the Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121, or 365(c) and § 1.78(d) and (e).

(1) A continuation or divisional application that names as inventors the same or fewer than all of the inventors named in the prior application may be filed under this paragraph or paragraph (d) of this section.

(2) A continuation-in-part application (which may disclose and claim subject matter not disclosed in the prior application) or a continuation or divisional application naming an inventor not named in the prior application must be filed under this paragraph.

(c) *Application filing requirements—Provisional application.* The filing date of a provisional application is the date on which a specification, with or without claims, is received in the Office. No amendment, other than to make the provisional application comply with the patent statute and all applicable regulations, may be made to the provisional application after the filing date of the provisional application.

(1) A provisional application must also include the cover sheet required by § 1.51(c)(1), which may be an application data sheet (§ 1.76), or a cover letter identifying the application as a provisional application. Otherwise, the application will be treated as an application filed under paragraph (b) of this section.

(2) An application for patent filed under paragraph (b) of this section may be converted to a provisional application and be accorded the original filing date of the application filed under paragraph (b) of this section. The grant of such a request for conversion will not entitle applicant to a refund of the fees that were properly paid in the application filed under paragraph (b) of this section. Such a request for conversion must be accompanied by the processing fee set forth in § 1.17(q) and be filed prior to the earliest of:

(i) Abandonment of the application filed under paragraph (b) of this section;

(ii) Payment of the issue fee on the application filed under paragraph (b) of this section; or

(iii) Expiration of twelve months after the filing date of the application filed under paragraph (b) of this section.

(3) A provisional application filed under paragraph (c) of this section may be converted to a nonprovisional application filed under paragraph (b) of this section and accorded the original filing date of the provisional application. The conversion of a provisional application to a nonprovisional application will not result in either the refund of any fee properly paid in the provisional application or the application of any such fee to the filing fee, or any other fee, for the nonprovisional application. Conversion of a provisional application to a nonprovisional application under this paragraph will result in the term of any patent to issue from the application being measured from at least the filing date of the provisional application for which conversion is requested. Thus, applicants should consider avoiding this adverse patent term impact by filing a nonprovisional application claiming the benefit of the provisional application under 35 U.S.C. 119(e), rather than converting the provisional application into a nonprovisional application pursuant to this paragraph. A request to convert a provisional application to a nonprovisional application must be accompanied by the fee set forth in § 1.17(i) and an amendment including at least one claim as prescribed by 35 U.S.C. 112(b), unless the provisional application under paragraph (c) of this section otherwise contains at least one claim as prescribed by 35 U.S.C. 112(b). The nonprovisional application resulting from conversion of a provisional application must also include the filing fee, search fee, and examination fee for a nonprovisional application, and the surcharge required by § 1.16(f) if either the basic filing fee for a nonprovisional application or the inventor's oath or declaration was not present on the filing date accorded the resulting nonprovisional application (*i.e.,* the filing date of the original provisional application). A request to convert a provisional application to a nonprovisional application must also be filed prior to the earliest of:

(i) Abandonment of the provisional application filed under paragraph (c) of this section; or

(ii) Expiration of twelve months after the filing date of the provisional application filed under paragraph (c) of this section.

(4) A provisional application is not entitled to the right of priority under 35 U.S.C. 119 or 365(a) or § 1.55, or to the benefit of an earlier filing date under 35 U.S.C. 120, 121, or 365(c) or § 1.78 of any other application. No claim for priority under 35 U.S.C. 119(e) or § 1.78(a) may be made in a design application based on a provisional application. The requirements of §§ 1.821 through 1.825 regarding application disclosures containing nucleotide and/or amino acid sequences are not mandatory for provisional applications.

* * * * *

(f) *Completion of application subsequent to filing—Nonprovisional (including continued prosecution or reissue) application.* (1) If an application which has been accorded a filing date pursuant to paragraph (b) or (d) of this section does not include the basic filing fee, search fee, or examination fee, or if an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include at least one claim or the inventor's oath or declaration (§§ 1.63, 1.64, 1.162, or 1.175), and the applicant has provided a correspondence address (§ 1.33(a)), the applicant will be notified and given a period of time within which to file a claim or claims, pay the basic filing fee, search fee, and examination fee, and pay the surcharge if required by § 1.16(f), to avoid abandonment.

(2) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the basic filing fee, search fee, examination fee, at least one claim, or the inventor's oath or declaration, and the applicant has not provided a

correspondence address (§ 1.33(a)), the applicant has three months from the filing date of the application within which to file a claim or claims, pay the basic filing fee, search fee, and examination fee, and pay the surcharge required by § 1.16(f), to avoid abandonment.

(3) The inventor's oath or declaration in an application under § 1.53(b) must also be filed within the period specified in paragraph (f)(1) or (f)(2) of this section, except that the filing of the inventor's oath or declaration may be postponed until the application is otherwise in condition for allowance under the conditions specified in paragraphs (f)(3)(i) and (f)(3)(ii) of this section.

(i) The application must be an original (non-reissue) application that contains an application data sheet in accordance with § 1.76 identifying:

(A) Each inventor by his or her legal name;

(B) A mailing address where the inventor customarily receives mail, and residence, if an inventor lives at a location which is different from where the inventor customarily receives mail, for each inventor.

(ii) The applicant must file each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, no later than the date on which the issue fee for the patent is paid. If the applicant is notified in a notice of allowability that an oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each named inventor has not been filed, the applicant must file each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, no later than the date on which the issue fee is paid to avoid abandonment. This time period is not extendable under § 1.136 (*see* § 1.136(c)). The Office may dispense with the notice provided for in paragraph (f)(1) of this section if each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, has been filed before the application is in condition for allowance.

(4) If the excess claims fees required by § 1.16(h) and (i) and multiple dependent claim fee required by § 1.16(j) are not paid on filing or on later presentation of the claims for which the excess claims or multiple dependent claim fees are due, the fees required by § 1.16(h), (i), and (j) must be paid or the claims canceled by amendment prior to the expiration of the time period set for reply by the Office in any notice of fee deficiency. If the application size fee required by § 1.16(s) (if any) is not paid on filing or on later presentation of the amendment necessitating a fee or additional fee under § 1.16(s), the fee required by § 1.16(s) must be paid prior to the expiration of the time period set for reply by the Office in any notice of fee deficiency in order to avoid abandonment.

(5) This paragraph applies to continuation or divisional applications under paragraphs (b) or (d) of this section and to continuation-in-part applications under paragraph (b) of this section. See § 1.63(d) concerning the submission of a copy of the inventor's oath or declaration from the prior application for a continuing application under paragraph (b) of this section.

(6) If applicant does not pay the basic filing fee during the pendency of the application, the Office may dispose of the application.

* * * * *

■ 18. Section 1.54 is amended by revising paragraph (b) to read as follows:

§ 1.54 Parts of application to be filed together; filing receipt.

* * * * *

(b) Applicant will be informed of the application number and filing date by a filing receipt, unless the application is an application filed under § 1.53(d). A letter limited to a request for a filing receipt may be signed by a juristic applicant or patent owner.

■ 19. Section 1.55 is amended by revising paragraphs (b) through (f) and (h) to read as follows:

§ 1.55 Claim for foreign priority.

* * * * *

(b) *Time for filing subsequent application.* The nonprovisional application must be filed not later than twelve months (six months in the case of a design application) after the date on which the foreign application was filed, or be entitled to claim the benefit under 35 U.S.C. 120, 121, or 365(c) of an application that was filed not later than twelve months (six months in the case of a design application) after the date on which the foreign application was filed, except as provided in paragraph (c) of this section. The twelve-month period is subject to 35 U.S.C. 21(b) (and § 1.7(a)) and PCT Rule 80.5, and the six-month period is subject to 35 U.S.C. 21(b) (and § 1.7(a)).

(c) *Delayed filing of subsequent application.* If the subsequent application has a filing date which is after the expiration of the period set forth in paragraph (b) of this section, but within two months from the expiration of the period set forth in paragraph (b) of this section, the right of priority in the subsequent application may be restored under PCT Rule 26*bis*.3 for an international application, or upon petition pursuant to this paragraph, if the delay in filing the subsequent application within the period set forth in paragraph (b) of this section was unintentional. A petition to restore the right of priority under this paragraph filed in the subsequent application must include:

(1) The priority claim under 35 U.S.C. 119(a) through (d) or (f), or 365(a) or (b) in an application data sheet (§ 1.76(b)(6)), identifying the foreign application to which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing, unless previously submitted;

(2) The petition fee as set forth in § 1.17(m); and

(3) A statement that the delay in filing the subsequent application within the period set forth in paragraph (b) of this section was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(d) *Time for filing priority claim*—(1) *Application under 35 U.S.C. 111(a).* The claim for priority must be filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application in an original application filed under 35 U.S.C. 111(a), except as provided in paragraph (e) of this section. The claim for priority must be presented in an application data sheet (§ 1.76(b)(6)), and must identify the foreign application to which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing. The time period in this paragraph does not apply in a design application.

(2) *Application under 35 U.S.C. 371.* The claim for priority must be made within the time limit set forth in the PCT and the Regulations under the PCT in an international application entering the national stage under 35 U.S.C. 371, except as provided in paragraph (e) of this section.

(e) *Delayed priority claim.* Unless such claim is accepted in accordance with the provisions of this paragraph, any claim for priority under 35 U.S.C. 119(a) through (d) or (f), or 365(a) or (b) not presented in the manner required by paragraph (d) of this section within the time period provided by paragraph (d) of this section is considered to have been waived. If a claim for priority is presented after the time period provided by paragraph (d) of this section, the

claim may be accepted if the priority claim was unintentionally delayed. A petition to accept a delayed claim for priority under 35 U.S.C. 119(a) through (d) or (f), or 365(a) or (b) must be accompanied by:

(1) The priority claim under 35 U.S.C. 119(a) through (d) or (f), or 365(a) or (b) in an application data sheet (§ 1.76(b)(6)), identifying the foreign application to which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing, unless previously submitted;

(2) A certified copy of the foreign application if required by paragraph (f) of this section, unless previously submitted;

(3) The petition fee as set forth in § 1.17(m); and

(4) A statement that the entire delay between the date the priority claim was due under paragraph (d) of this section and the date the priority claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(f) *Time for filing certified copy of foreign application*—(1) *Application under 35 U.S.C. 111(a).* A certified copy of the foreign application must be filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application in an original application filed under 35 U.S.C. 111(a), except as provided in paragraphs (h) and (i) of this section. The time period in this paragraph does not apply in a design application.

(2) *Application under 35 U.S.C. 371.* A certified copy of the foreign application must be filed within the time limit set forth in the PCT and the Regulations under the PCT in an international application entering the national stage under 35 U.S.C. 371. If a certified copy of the foreign application is not filed during the international stage, a certified copy of the foreign application must be filed within four months from the date of entry into the national stage as set forth in § 1.491 or sixteen months from the filing date of the prior-filed foreign application, except as provided in paragraphs (h) and (i) of this section.

(3) If a certified copy of the foreign application is not filed within the time period specified paragraph (f)(1) of this section in an application under 35 U.S.C. 111(a) or within the period specified in paragraph (f)(2) of this section in an international application entering the national stage under 35 U.S.C. 371, and the exceptions in paragraphs (h) and (i) of this section are not applicable, the certified copy of the foreign application must be accompanied by a petition including a showing of good and sufficient cause for the delay and the petition fee set forth in § 1.17(g).

* * * * *

(h) *Foreign intellectual property office participating in a priority document exchange agreement.* The requirement in paragraphs (f) and (g) of this section for a certified copy of the foreign application to be filed within the time limit set forth therein will be considered satisfied if:

(1) The foreign application was filed in a foreign intellectual property office participating with the Office in a bilateral or multilateral priority document exchange agreement (participating foreign intellectual property office), or a copy of the foreign application was filed in an application subsequently filed in a participating foreign intellectual property office that permits the Office to obtain such a copy;

(2) The claim for priority is presented in an application data sheet (§ 1.76(b)(6)), identifying the foreign application for which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing, and the applicant provides the information necessary for the participating foreign intellectual property office to provide the Office with access to the foreign application;

(3) The copy of the foreign application is received by the Office from the participating foreign intellectual property office, or a certified copy of the foreign application is filed, within the period specified in paragraph (g)(1) of this section; and

(4) The applicant files a request in a separate document that the Office obtain a copy of the foreign application from a participating intellectual property office that permits the Office to obtain such a copy if the foreign application was not filed in a participating foreign intellectual property office but a copy of the foreign application was filed in an application subsequently filed in a participating foreign intellectual property office that permits the Office to obtain such a copy. The request must identify the participating intellectual property office and the subsequent application by the application number, day, month, and year of its filing in which a copy of the foreign application was filed. The request must be filed within the later of sixteen months from the filing date of the prior foreign application or four months from the actual filing date of an application under 35 U.S.C. 111(a), within four months from the later of the date of commencement (§ 1.491(a)) or the date of the initial submission under 35 U.S.C. 371 in an application entering the national stage under 35 U.S.C. 371, or with a petition under paragraph (e) of this section.

* * * * *

■ 20. Section 1.57 is revised to read as follows:

§ 1.57 Incorporation by reference.

(a) Subject to the conditions and requirements of this paragraph, a reference made in the English language in an application data sheet in accordance with § 1.76 upon the filing of an application under 35 U.S.C. 111(a) to a previously filed application, indicating that the specification and any drawings of the application under 35 U.S.C. 111(a) are replaced by the reference to the previously filed application, and specifying the previously filed application by application number, filing date, and the intellectual property authority or country in which the previously filed application was filed, shall constitute the specification and any drawings of the application under 35 U.S.C. 111(a) for purposes of a filing date under § 1.53(b).

(1) If the applicant has provided a correspondence address (§ 1.33(a)), the applicant will be notified and given a period of time within which to file a copy of the specification and drawings from the previously filed application, an English language translation of the previously filed application, and the fee required by § 1.17(i) if it is in a language other than English, and pay the surcharge required by § 1.16(f), to avoid abandonment. Such a notice may be combined with a notice under § 1.53(f).

(2) If the applicant has not provided a correspondence address (§ 1.33(a)), the applicant has three months from the filing date of the application to file a copy of the specification and drawings from the previously filed application, an English language translation of the previously filed application, and the fee required by § 1.17(i) if it is in a language other than English, and pay the surcharge required by § 1.16(f), to avoid abandonment.

(3) An application abandoned under paragraph (a)(1) or (a)(2) of this section shall be treated as having never been filed, unless:

(i) The application is revived under § 1.137; and

(ii) A copy of the specification and any drawings of the previously filed application are filed in the Office.

(4) A certified copy of the previously filed application must be filed in the Office, unless the previously filed application is an application filed under 35 U.S.C. 111 or 363, or the previously filed application is a foreign priority application and the conditions set forth in § 1.55(h) are satisfied with respect to such foreign priority application. The certified copy of the previously filed application, if required by this paragraph, must be filed within the later of four months from the filing date of the application or sixteen months from the filing date of the previously filed application, or be accompanied by a petition including a showing of good and sufficient cause for the delay and the petition fee set forth in § 1.17(g).

(b) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

(1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:

(i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;

(ii) Supply an English language translation of any prior-filed application that is in a language other than English; and

(iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

(2) Any amendment to an international application pursuant to paragraph (b)(1) of this section shall be effective only as to the United States, and shall have no effect on the international filing date of the application. In addition, no request under this section to add the inadvertently omitted portion of the specification or drawings in an international application designating the United States will be acted upon by the Office prior to the entry and commencement of the national stage (§ 1.491) or the filing of an application under 35 U.S.C. 111(a) which claims benefit of the international application. Any omitted portion of the international application which applicant desires to be effective as to all designated States, subject to PCT Rule 20.8(b), must be submitted in accordance with PCT Rule 20.

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to § 1.53(e) accompanied by the fee set forth in § 1.17(f).

(c) Except as provided in paragraph (a) or (b) of this section, an incorporation by reference must be set forth in the specification and must:

(1) Express a clear intent to incorporate by reference by using the root words ''incorporat(e)'' and ''reference'' (*e.g.,* ''incorporate by reference''); and

(2) Clearly identify the referenced patent, application, or publication.

(d) ''Essential material'' may be incorporated by reference, but only by way of an incorporation by reference to a U.S. patent or U.S. patent application publication, which patent or patent application publication does not itself incorporate such essential material by reference. ''Essential material'' is material that is necessary to:

(1) Provide a written description of the claimed invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and set forth the best mode contemplated by the inventor of carrying out the invention as required by 35 U.S.C. 112(a);

(2) Describe the claimed invention in terms that particularly point out and distinctly claim the invention as required by 35 U.S.C. 112(b); or

(3) Describe the structure, material, or acts that correspond to a claimed means or step for performing a specified function as required by 35 U.S.C. 112(f).

(e) Other material (''Nonessential material'') may be incorporated by reference to U.S. patents, U.S. patent application publications, foreign patents, foreign published applications, prior and concurrently filed commonly owned U.S. applications, or non-patent publications. An incorporation by reference by hyperlink or other form of browser executable code is not permitted.

(f) The examiner may require the applicant to supply a copy of the material incorporated by reference. If the Office requires the applicant to supply a copy of material incorporated by reference, the material must be accompanied by a statement that the copy supplied consists of the same material incorporated by reference in the referencing application.

(g) Any insertion of material incorporated by reference into the specification or drawings of an application must be by way of an amendment to the specification or drawings. Such an amendment must be accompanied by a statement that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter.

(h) An incorporation of material by reference that does not comply with paragraphs (c), (d), or (e) of this section is not effective to incorporate such material unless corrected within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. In addition:

(1) A correction to comply with paragraph (c)(1) of this section is permitted only if the application as filed clearly conveys an intent to incorporate the material by reference. A mere reference to material does not convey an intent to incorporate the material by reference.

(2) A correction to comply with paragraph (c)(2) of this section is only permitted for material that was sufficiently described to uniquely identify the document.

(i) An application transmittal letter limited to the transmittal of a copy of the specification and drawings from a previously filed application submitted under paragraph (a) or (b) of this section may be signed by a juristic applicant or patent owner.

■ 21. Section 1.58 is amended by revising paragraph (a) to read as follows:

§ 1.58 Chemical and mathematical formulae and tables.

(a) The specification, including the claims, may contain chemical and mathematical formulae, but shall not contain drawings or flow diagrams. The description portion of the specification may contain tables, but the same tables should not be included in both the drawings and description portion of the specification. Claims may contain tables either if necessary to conform to 35

U.S.C. 112 or if otherwise found to be desirable.

* * * * *

■ 22. Section 1.72 is amended by revising paragraph (b) to read as follows:

§ 1.72 Title and abstract.

* * * * *

(b) A brief abstract of the technical disclosure in the specification must commence on a separate sheet, preferably following the claims, under the heading ''Abstract'' or ''Abstract of the Disclosure.'' The sheet or sheets presenting the abstract may not include other parts of the application or other material. The abstract must be as concise as the disclosure permits, preferably not exceeding 150 words in length. The purpose of the abstract is to enable the Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure.

■ 23. Section 1.76 is amended by revising paragraph (b)(3) and (d)(2) and adding new paragraphs (f) and (g) to read as follows:

§ 1.76 Application data sheet.

* * * * *

(b) * * *

(3) *Application information.* This information includes the title of the invention, the total number of drawing sheets, a suggested drawing figure for publication (in a nonprovisional application), any docket number assigned to the application, the type of application (*e.g.,* utility, plant, design, reissue, provisional), whether the application discloses any significant part of the subject matter of an application under a secrecy order pursuant to § 5.2 of this chapter (*see* § 5.2(c)), and, for plant applications, the Latin name of the genus and species of the plant claimed, as well as the variety denomination. When information concerning the previously filed application is required under § 1.57(a), application information also includes the reference to the previously filed application, indicating that the specification and any drawings of the application are replaced by the reference to the previously filed application, and specifying the previously filed application by application number, filing date, and the intellectual property authority or country in which the previously filed application was filed.

* * * * *

(d) * * *

(2) The information in the application data sheet will govern when inconsistent with the information supplied at the same time by a designation of correspondence address or the inventor's oath or declaration. The information in the application data sheet will govern when inconsistent with the information supplied at any time in a Patent Cooperation Treaty Request Form, Patent Law Treaty Model International Request Form, Patent Law Treaty Model International Request for Recordation of Change in Name or Address Form, or Patent Law Treaty Model International Request for Recordation of Change in Applicant or Owner Form.

* * * * *

(f) *Patent Law Treaty Model International Forms.* The requirement in § 1.55 or § 1.78 for the presentation of a priority or benefit claim under 35 U.S.C. 119, 120, 121, or 365 in an application data sheet will be satisfied by the presentation of such priority or benefit claim in the Patent Law Treaty Model International Request Form, and the requirement in § 1.57(a) for a reference to the previously filed application in an application data sheet will be satisfied by the presentation of such reference to the previously filed application in the Patent Law Treaty Model International Request Form. The requirement in § 1.46 for the presentation of the name of the applicant under 35 U.S.C. 118 in an application data sheet will be satisfied by the presentation of the name of the applicant in the Patent Law Treaty Model International Request Form, Patent Law Treaty Model International Request for Recordation of Change in Name or Address Form, or Patent Law Treaty Model International Request for Recordation of Change in Applicant or Owner Form, as applicable.

(g) *Patent Cooperation Treaty Request Form.* The requirement in § 1.78 for the presentation of a benefit claim under 35 U.S.C. 119, 120, 121, or 365 in an application data sheet will be satisfied in a national stage application under 35 U.S.C. 371 by the presentation of such benefit claim in the Patent Cooperation Treaty Request Form contained in the international application or the presence of such benefit claim on the front page of the publication of the international application under PCT Article 21(2). The requirement in § 1.55 or § 1.78 for the presentation of a priority or benefit claim under 35 U.S.C. 119, 120, 121, or 365 in an application data sheet and the requirement in § 1.46 for the presentation of the name of the applicant under 35 U.S.C. 118 in an application data sheet will be satisfied in an application under 35 U.S.C. 111 by the presentation of such priority or benefit claim and presentation of the name of the applicant in a Patent Cooperation Treaty Request Form. If a Patent Cooperation Treaty Request Form is submitted in an application under 35 U.S.C. 111, the Patent Cooperation Treaty Request Form must be accompanied by a clear indication that treatment of the application as an application under 35 U.S.C. 111 is desired.

■ 24. Section 1.78 is revised to read as follows:

§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a) *Claims under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application.* An applicant in a nonprovisional application, other than for a design patent, or an international application designating the United States of America may claim the benefit of one or more prior-filed provisional applications under the conditions set forth in 35 U.S.C. 119(e) and this section.

(1) Except as provided in paragraph (b) of this section, the nonprovisional application or international application designating the United States of America must be filed not later than twelve months after the date on which the provisional application was filed, or be entitled to claim the benefit under 35 U.S.C. 120, 121, or 365(c) of an application that was filed not later than twelve months after the date on which the provisional application was filed. This twelve-month period is subject to 35 U.S.C. 21(b) (and § 1.7(a)) and PCT Rule 80.5.

(2) Each prior-filed provisional application must name the inventor or a joint inventor named in the later-filed application as the inventor or a joint inventor. In addition, each prior-filed provisional application must be entitled to a filing date as set forth in § 1.53(c), and the basic filing fee set forth in § 1.16(d) must have been paid for such provisional application within the time period set forth in § 1.53(g).

(3) Any nonprovisional application or international application designating the United States of America that claims the benefit of one or more prior-filed provisional applications must contain, or be amended to contain, a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number). If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76(b)(5)).

(4) The reference required by paragraph (a)(3) of this section must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a national stage application under 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f), four months from the date of the initial submission under 35 U.S.C. 371 to enter the national stage, or sixteen months from the filing date of the prior-filed provisional application. Except as provided in paragraph (c) of this section, failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) of the prior-filed provisional application.

(5) If the prior-filed provisional application was filed in a language other than English and both an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application, the applicant will be notified and given a period of time within which to file, in the prior-filed provisional application, the translation and the statement. If the notice is mailed in a pending nonprovisional application, a timely reply to such a notice must include the filing in the nonprovisional application of either a confirmation that the translation and statement were filed in the provisional application, or an application data sheet eliminating the reference under paragraph (a)(3) of this section to the prior-filed provisional application, or the nonprovisional application will be abandoned. The translation and statement may be filed in the provisional application, even if the provisional application has become abandoned.

(6) If a nonprovisional application filed on or after March 16, 2013, claims the benefit of the filing date of a provisional application filed prior to March 16, 2013, and also contains, or contained at any time, a claim to a claimed invention that has an effective filing date on or after March 16, 2013, the applicant must provide a statement to that effect within the later of four months from the actual filing date of the nonprovisional application, four months from the date of entry into the national stage as set forth in § 1.491 in an international application, sixteen months from the filing date of the prior-filed provisional application, or the date that a first claim to a claimed invention that has an effective filing date on or after March 16, 2013, is presented in the nonprovisional application. An applicant is not required to provide such a statement if the applicant reasonably believes on the basis of information already known to the individuals designated in § 1.56(c) that the nonprovisional application does not, and did not at any time, contain a claim to a claimed invention that has an effective filing date on or after March 16, 2013.

(b) *Delayed filing of the nonprovisional application or international application designating the United States of America.* If the nonprovisional application or international application designating the United States of America has a filing date which is after the expiration of the twelve-month period set forth in paragraph (a)(1) of this section but within two months from the expiration of the period set forth in paragraph (a)(1) of this section, the benefit of the provisional application may be restored under PCT Rule 26*bis*.3 for an international application, or upon petition pursuant to this paragraph, if the delay in filing the nonprovisional application or international application designating the United States of America within the period set forth in paragraph (a)(1) of this section was unintentional.

(1) A petition to restore the benefit of the provisional application under this paragraph filed in the nonprovisional application or international application designating the United States of America must include:

(i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(3) of this section to the prior-filed provisional application, unless previously submitted;

(ii) The petition fee as set forth in § 1.17(m); and

(iii) A statement that the delay in filing the nonprovisional application or international application designating the United States of America within the twelve-month period set forth in paragraph (a)(1) of this section was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(2) The restoration of the right of priority under PCT Rule 26*bis*.3 to a provisional application does not affect the requirement to include the reference required by paragraph (a)(3) of this section to the provisional application in a national stage application under 35 U.S.C. 371 within the time period provided by paragraph (a)(4) of this section to avoid the benefit claim being considered waived.

(c) *Delayed claims under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application.* If the reference required by 35 U.S.C. 119(e) and paragraph (a)(3) of this section is presented in an application after the time period provided by paragraph (a)(4) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application may be accepted if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application must be accompanied by:

(1) The reference required by 35 U.S.C. 119(e) and paragraph (a)(3) of this section to the prior-filed provisional application, unless previously submitted;

(2) The petition fee as set forth in § 1.17(m); and

(3) A statement that the entire delay between the date the benefit claim was due under paragraph (a)(4) of this section and the date the benefit claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(d) *Claims under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed nonprovisional or international application.* An applicant in a nonprovisional application (including an international application entering the national stage under 35 U.S.C. 371) or an international application designating the United States of America may claim the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America under the conditions set forth in 35 U.S.C. 120, 121, or 365(c) and this section.

(1) Each prior-filed application must name the inventor or a joint inventor named in the later-filed application as the inventor or a joint inventor. In addition, each prior-filed application must either be:

(i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or

(ii) A nonprovisional application under 35 U.S.C. 111(a) that is entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) for which the basic filing fee set forth in § 1.16 has been paid within the pendency of the application.

(2) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application, or international application designating the United States of America, that claims the benefit of one or more prior-filed nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date. If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76(b)(5)). The reference also must identify the relationship of the applications, namely, whether the later-filed application is a continuation, divisional, or continuation-in-part of the prior-filed nonprovisional application or international application.

(3) The reference required by 35 U.S.C. 120 and paragraph (d)(2) of this section must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application entering the national stage from an international application under 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application, four months from the date of the initial submission under 35 U.S.C. 371 to enter the national stage, or sixteen months from the filing date of the prior-filed application. Except as provided in paragraph (e) of this section, failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (d)(2) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to the prior-filed application. The time periods in this paragraph do not apply in a design application.

(4) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior-filed application. The identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.

(5) Cross-references to other related applications may be made when appropriate (see § 1.14), but cross-references to applications for which a benefit is not claimed under title 35, United States Code, must not be included in an application data sheet (§ 1.76(b)(5)).

(6) If a nonprovisional application filed on or after March 16, 2013, claims the benefit of the filing date of a nonprovisional application or an international application designating the United States of America filed prior to March 16, 2013, and also contains, or contained at any time, a claim to a claimed invention that has an effective filing date on or after March 16, 2013, the applicant must provide a statement to that effect within the later of four months from the actual filing date of the later-filed application, four months from the date of entry into the national stage as set forth in § 1.491 in an international application, sixteen months from the filing date of the prior-filed application, or the date that a first claim to a claimed invention that has an effective filing date on or after March 16, 2013, is presented in the later-filed application. An applicant is not required to provide such a statement if either:

(i) The application claims the benefit of a nonprovisional application in which a statement under § 1.55(j), paragraph (a)(6) of this section, or this paragraph that the application contains, or contained at any time, a claim to a claimed invention that has an effective filing date on or after March 16, 2013 has been filed; or

(ii) The applicant reasonably believes on the basis of information already known to the individuals designated in § 1.56(c) that the later filed application does not, and did not at any time, contain a claim to a claimed invention that has an effective filing date on or after March 16, 2013.

(e) *Delayed claims under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed nonprovisional application or international application.* If the reference required by 35 U.S.C. 120 and paragraph (d)(2) of this section is presented after the time period provided by paragraph (d)(3) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(1) The reference required by 35 U.S.C. 120 and paragraph (d)(2) of this section to the prior-filed application, unless previously submitted;

(2) The petition fee as set forth in § 1.17(m); and

(3) A statement that the entire delay between the date the benefit claim was due under paragraph (d)(3) of this section and the date the benefit claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(f) *Applications containing patentably indistinct claims.* Where two or more applications filed by the same applicant contain patentably indistinct claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application.

(g) *Applications or patents under reexamination naming different inventors and containing patentably indistinct claims.* If an application or a patent under reexamination and at least one other application naming different inventors are owned by the same person and contain patentably indistinct claims, and there is no statement of record indicating that the claimed inventions were commonly owned or subject to an obligation of assignment to the same person on the effective filing date (as defined in § 1.109), or on the date of the invention, as applicable, of the later claimed invention, the Office may require the applicant to state whether the claimed inventions were commonly owned or subject to an obligation of assignment to the same person on such date. Even if the claimed inventions were commonly owned, or subject to an obligation of assignment to the same person on the effective filing date (as defined in § 1.109), or on the date of the invention, as applicable, of the later claimed invention, the patentably indistinct claims may be rejected under the doctrine of double patenting in view of such commonly owned or assigned applications or patents under reexamination.

(h) *Time periods not extendable.* The time periods set forth in this section are not extendable.

■ 25. Section 1.81 is amended by revising paragraph (a) to read as follows:

§ 1.81 Drawings required in patent application.

(a) The applicant for a patent is required to furnish a drawing of the

invention where necessary for the understanding of the subject matter sought to be patented. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for any necessary future correction.

* * * * *

■ 26. Section 1.83 is amended by revising paragraph (a) to read as follows:

§ 1.83 Content of drawing.

(a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (*e.g.,* a labeled rectangular box). In addition, tables that are included in the specification and sequences that are included in sequence listings should not be duplicated in the drawings.

* * * * *

■ 27. Section 1.85 is amended by revising paragraph (c) to read as follows:

§ 1.85 Corrections to drawings.

* * * * *

(c) If a corrected drawing is required or if a drawing does not comply with § 1.84 at or after the time an application is allowed, the Office may notify the applicant in a notice of allowability and set a three-month period of time from the mailing date of the notice of allowability within which the applicant must file a corrected drawing in compliance with § 1.84 to avoid abandonment. This time period is not extendable under § 1.136 (*see* § 1.136(c)).

■ 28. Section 1.131 is amended by revising paragraph (a) to read as follows:

§ 1.131 Affidavit or declaration of prior invention or to disqualify commonly owned patent or published application as prior art.

(a) When any claim of an application or a patent under reexamination is rejected, the applicant or patent owner may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based. The effective date of a U.S. patent, U.S. patent application publication, or international application publication under PCT Article 21(2) is the earlier of its publication date or the date that it is effective as a reference under 35 U.S.C. 102(e) as in effect on March 15, 2013. Prior invention may not be established under this section in any country other than the United States, a NAFTA country, or a WTO member country. Prior invention may not be established under this section before December 8, 1993, in a NAFTA country other than the United States, or before January 1, 1996, in a WTO member country other than a NAFTA country. Prior invention may not be established under this section if either:

(1) The rejection is based upon a U.S. patent or U.S. patent application publication of a pending or patented application naming another inventor which claims interfering subject matter as defined in § 41.203(a) of this chapter, in which case an applicant may suggest an interference pursuant to § 41.202(a) of this chapter; or

(2) The rejection is based upon a statutory bar.

* * * * *

■ 29. Section 1.136 is amended by revising paragraphs (a)(1)(iv), (a)(2), and (b), and by adding paragraph (d), to read as follows:

§ 1.136 Extensions of time.

(a)(1) * * *

(iv) The reply is to a decision by the Patent Trial and Appeal Board pursuant to § 41.50 or § 41.52 of this chapter or to § 90.3 of this chapter; or

* * * * *

(2) The date on which the petition and the fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. A reply must be filed prior to the expiration of the period of extension to avoid abandonment of the application (§ 1.135), but in no situation may an applicant reply later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of paragraph (a) of this section are available.

* * * * *

(b) When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for sufficient cause and for a reasonable time specified. Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not effect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute. Any request under this paragraph must be accompanied by the petition fee set forth in § 1.17(g).

* * * * *

(d) See § 1.550(c) for extensions of time in *ex parte* reexamination proceedings, § 1.956 for extensions of time in *inter partes* reexamination proceedings; §§ 41.4(a) and 41.121(a)(3) of this chapter for extensions of time in contested cases before the Patent Trial and Appeal Board; § 42.5(c) of this chapter for extensions of time in trials before the Patent Trial and Appeal Board; and § 90.3 of this chapter for extensions of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action.

■ 30. Section 1.137 is revised to read as follows:

§ 1.137 Revival of abandoned application, or terminated or limited reexamination prosecution.

(a) *Revival on the basis of unintentional delay.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this section to revive an abandoned application or a reexamination prosecution terminated under § 1.550(d) or § 1.957(b) or limited under § 1.957(c).

(b) *Petition requirements.* A grantable petition pursuant to this section must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section; and

(4) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this section was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(c) *Reply.* In an application abandoned under § 1.57(a), the reply must include a copy of the specification and any drawings of the previously filed application. In an application or patent abandoned for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. In a nonprovisional application abandoned for failure to prosecute, the required reply may be

met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, abandoned after the close of prosecution as defined in § 1.114(b), the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114.

(d) *Terminal disclaimer.* (1) Any petition to revive pursuant to this section in a design application must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any petition to revive pursuant to this section in either a utility or plant application filed before June 8, 1995, must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of:

(i) The period of abandonment of the application; or

(ii) The period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed.

(2) Any terminal disclaimer pursuant to paragraph (d)(1) of this section must also apply to any patent granted on a continuing utility or plant application filed before June 8, 1995, or a continuing design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.

(3) The provisions of paragraph (d)(1) of this section do not apply to applications for which revival is sought solely for purposes of copendency with a utility or plant application filed on or after June 8, 1995, to reissue applications, or to reexamination proceedings.

(e) *Request for reconsideration.* Any request for reconsideration or review of a decision refusing to revive an abandoned application, or a terminated or limited reexamination prosecution, upon petition filed pursuant to this section, to be considered timely, must be filed within two months of the decision refusing to revive or within such time as set in the decision. Unless a decision indicates otherwise, this time period may be extended under:

(1) The provisions of § 1.136 for an abandoned application;

(2) The provisions of § 1.550(c) for a terminated *ex parte* reexamination prosecution, where the *ex parte* reexamination was filed under § 1.510; or

(3) The provisions of § 1.956 for a terminated *inter partes* reexamination prosecution or an *inter partes* reexamination limited as to further prosecution, where the *inter partes* reexamination was filed under § 1.913.

(f) *Abandonment for failure to notify the Office of a foreign filing.* A nonprovisional application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing, may be revived pursuant to this section. The reply requirement of paragraph (c) of this section is met by the notification of such filing in a foreign country or under a multinational treaty, but the filing of a petition under this section will not operate to stay any period for reply that may be running against the application.

(g) *Provisional applications.* A provisional application, abandoned for failure to timely respond to an Office requirement, may be revived pursuant to this section. Subject to the provisions of 35 U.S.C. 119(e)(3) and § 1.7(b), a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances.

■ 31. Section 1.138 is amended by revising paragraph (b) to read as follows:

§ 1.138 Express abandonment.

* * * * *

(b) A written declaration of abandonment must be signed by a party authorized under § 1.33(b)(1) or (b)(3) to sign a paper in the application, except as otherwise provided in this paragraph. A registered attorney or agent, not of record, who acts in a representative capacity under the provisions of § 1.34 when filing a continuing application, may expressly abandon the prior application as of the filing date granted to the continuing application.

* * * * *

■ 32. Section 1.197 is revised to read as follows:

§ 1.197 Termination of proceedings.

(a) Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except:

(1) Where claims stand allowed in an application; or

(2) Where the nature of the decision requires further action by the examiner.

(b) The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 90.3 of this chapter) expires in the absence of further appeal or review. If an appeal to the U.S. Court of Appeals for the Federal Circuit or a civil action has been filed, proceedings on an application are considered terminated when the appeal or civil action is terminated. A civil action is terminated when the time to appeal the judgment expires. An appeal to the U.S. Court of Appeals for the Federal Circuit, whether from a decision of the Board or a judgment in a civil action, is terminated when the mandate is issued by the Court.

■ 33. Section 1.290 is amended by revising paragraph (f) to read as follows:

§ 1.290 Submissions by third parties in applications.

* * * * *

(f) Any third-party submission under this section must be accompanied by the fee set forth in § 1.17(o) for every ten items or fraction thereof identified in the document list.

* * * * *

■ 34. Section 1.311 is amended by revising paragraph (a) to read as follows:

§ 1.311 Notice of allowance.

(a) If, on examination, it appears that the applicant is entitled to a patent under the law, a notice of allowance will be sent to the applicant at the correspondence address indicated in § 1.33. The notice of allowance shall specify a sum constituting the issue fee and any required publication fee (§ 1.211(e)), which issue fee and any required publication fee must both be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This three-month period is not extendable.

* * * * *

§ 1.317 [Removed and Reserved]

■ 35. Section 1.317 is removed and reserved.

■ 36. Section 1.366 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.366 Submission of maintenance fees.

(a) The patentee may pay maintenance fees and any necessary surcharges, or any person or organization may pay maintenance fees and any necessary surcharges on behalf of a patentee. A maintenance fee

transmittal letter may be signed by a juristic applicant or patent owner. A patentee need not file authorization to enable any person or organization to pay maintenance fees and any necessary surcharges on behalf of the patentee.

(b) A maintenance fee and any necessary surcharge submitted for a patent must be submitted in the amount due on the date the maintenance fee and any necessary surcharge are paid. A maintenance fee or surcharge may be paid in the manner set forth in § 1.23 or by an authorization to charge a deposit account established pursuant to § 1.25. Payment of a maintenance fee and any necessary surcharge or the authorization to charge a deposit account must be submitted within the periods set forth in § 1.362 (d), (e), or (f). Any payment or authorization of maintenance fees and surcharges filed at any other time will not be accepted and will not serve as a payment of the maintenance fee except insofar as a delayed payment of the maintenance fee is accepted by the Director in an expired patent pursuant to a petition filed under § 1.378. Any authorization to charge a deposit account must authorize the immediate charging of the maintenance fee and any necessary surcharge to the deposit account. Payment of less than the required amount, payment in a manner other than that set forth in § 1.23, or in the filing of an authorization to charge a deposit account having insufficient funds will not constitute payment of a maintenance fee or surcharge on a patent. The procedures set forth in § 1.8 or § 1.10 may be utilized in paying maintenance fees and any necessary surcharges.

* * * * *

■ 37. Section 1.378 is revised to read as follows:

§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.

(a) The Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unintentional. If the Director accepts payment of the maintenance fee upon petition, the patent shall be considered as not having expired, but will be subject to the conditions set forth in 35 U.S.C. 41(c)(2).

(b) Any petition to accept an unintentionally delayed payment of a maintenance fee must include:

(1) The required maintenance fee set forth in § 1.20(e) through (g);

(2) The petition fee as set forth in § 1.17(m); and

(3) A statement that the delay in payment of the maintenance fee was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(c) Any petition under this section must be signed in compliance with § 1.33(b).

(d) Reconsideration of a decision refusing to accept a delayed maintenance fee may be obtained by filing a petition for reconsideration within two months of the decision, or such other time as set in the decision refusing to accept the delayed payment of the maintenance fee.

(e) If the delayed payment of the maintenance fee is not accepted, the maintenance fee will be refunded following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed.

■ 38. Section 1.452 is amended by removing paragraph (d) and revising paragraph (b)(2) to read as follows:

§ 1.452 Restoration of right of priority.

* * * * *

(b) * * *

(2) The petition fee as set forth in § 1.17(m); and

* * * * *

■ 39. Section 1.495 is amended by revising paragraph (c)(3)(ii) to read as follows:

§ 1.495 Entering the national stage in the United States of America.

* * * * *

(c) * * *

(3) * * *

(ii) The applicant must file each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, no later than the date on which the issue fee for the patent is paid. If the applicant is notified in a notice of allowability that an oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, executed by or with respect to each named inventor has not been filed, the applicant must file each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, no later than the date on which the issue fee is paid to avoid abandonment. This time period is not extendable under § 1.136 (*see* § 1.136(c)). The Office may dispense with the notice provided for in paragraph (c)(1) of this section if each required oath or declaration in compliance with § 1.63, or substitute statement in compliance with § 1.64, has been filed before the application is in condition for allowance.

* * * * *

■ 40. Section 1.550 is amended by revising paragraphs (c) and (e) to read as follows:

§ 1.550 Conduct of ex parte reexamination proceedings.

* * * * *

(c) The time for taking any action by a patent owner in an *ex parte* reexamination proceeding may be extended as provided in this paragraph.

(1) Any request for such an extension must specify the requested period of extension and be accompanied by the petition fee set forth in § 1.17(g).

(2) Any request for an extension in a third party requested *ex parte* reexamination must be filed on or before the day on which action by the patent owner is due, and the mere filing of such a request for extension will not effect the extension. A request for an extension in a third party requested *ex parte* reexamination will not be granted in the absence of sufficient cause or for more than a reasonable time.

(3) Any request for an extension in a patent owner requested or Director ordered *ex parte* reexamination for up to two months from the time period set in the Office action must be filed no later than two months from the expiration of the time period set in the Office action. A request for an extension in a patent owner requested or Director ordered *ex parte* reexamination for more than two months from the time period set in the Office action must be filed on or before the day on which action by the patent owner is due, and the mere filing of a request for an extension for more than two months from the time period set in the Office action will not effect the extension. The time for taking action in a patent owner requested or Director ordered *ex parte* reexamination will not be extended for more than two months from the time period set in the Office action in the absence of sufficient cause or for more than a reasonable time.

(4) The reply or other action must in any event be filed prior to the expiration of the period of extension, but in no situation may a reply or other action be filed later than the maximum time period set by statute.

(5) See § 90.3(c) of this title for extensions of time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action.

* * * * *

(e) If a response by the patent owner is not timely filed in the Office, a petition may be filed pursuant to § 1.137

to revive a reexamination prosecution terminated under paragraph (d) of this section if the delay in response was unintentional.

* * * * *

■ 41. Section 1.704 is amended by revising paragraphs (c)(11) and (c)(12), and adding new paragraphs (c)(13) and (f) to read as follows:

§ 1.704 Reduction of period of adjustment of patent term.

* * * * *

(c) * * *

(11) Failure to file an appeal brief in compliance with § 41.37 of this chapter within three months from the date on which a notice of appeal to the Patent Trial and Appeal Board was filed under 35 U.S.C. 134 and § 41.31 of this chapter, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date three months from the date on which a notice of appeal to the Patent Trial and Appeal Board was filed under 35 U.S.C. 134 and § 41.31 of this chapter, and ending on the date an appeal brief in compliance with § 41.37 of this chapter or a request for continued examination in compliance with § 1.114 was filed;

(12) Failure to provide an application in condition for examination as defined in paragraph (f) of this section within eight months from either the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is eight months from either the date on which the application was filed under 35 U.S.C. 111(a) or the date of commencement of the national stage under 35 U.S.C. 371(b) or (f) in an international application and ending on the date the application is in condition for examination as defined in paragraph (f) of this section; and

(13) Further prosecution via a continuing application, in which case the period of adjustment set forth in § 1.703 shall not include any period that is prior to the actual filing date of the application that resulted in the patent.

* * * * *

(f) An application filed under 35 U.S.C. 111(a) is in condition for examination when the application includes a specification, including at least one claim and an abstract (§ 1.72(b)), and has papers in compliance with § 1.52, drawings (if any) in compliance with § 1.84, any English translation required by § 1.52(d) or § 1.57(a), a sequence listing in compliance with § 1.821 through § 1.825 (if applicable), the inventor's oath or declaration or an application data sheet containing the information specified in § 1.63(b), the basic filing fee (§ 1.16(a) or § 1.16(c)), the search fee (§ 1.16(k) or § 1.16(m)), the examination fee (§ 1.16(o) or § 1.16(q)), any certified copy of the previously filed application required by § 1.57(a), and any application size fee required by the Office under § 1.16(s). An international application is in condition for examination when the application has entered the national stage as defined in § 1.491(b), and includes a specification, including at least one claim and an abstract (§ 1.72(b)), and has papers in compliance with § 1.52, drawings (if any) in compliance with § 1.84, a sequence listing in compliance with § 1.821 through § 1.825 (if applicable), the inventor's oath or declaration or an application data sheet containing the information specified in § 1.63(b), the search fee (§ 1.492(b)), the examination fee (§ 1.492(c)), and any application size fee required by the Office under § 1.492(j). An application shall be considered as having papers in compliance with § 1.52, drawings (if any) in compliance with § 1.84, and a sequence listing in compliance with § 1.821 through § 1.825 (if applicable) for purposes of this paragraph on the filing date of the latest reply (if any) correcting the papers, drawings, or sequence listing that is prior to the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

■ 42. Section 1.809 is amended by revising paragraph (c) to read as follows:

§ 1.809 Examination procedures.

* * * * *

(c) If an application for patent is otherwise in condition for allowance except for a needed deposit and the Office has received a written assurance that an acceptable deposit will be made, the Office may notify the applicant in a notice of allowability and set a three-month period of time from the mailing date of the notice of allowability within which the deposit must be made in order to avoid abandonment. This time period is not extendable under § 1.136 (*see* § 1.136(c)).

* * * * *

■ 43. Section 1.958 is revised to read as follows:

§ 1.958 Petition to revive inter partes reexamination prosecution terminated for lack of patent owner response.

If a response by the patent owner is not timely filed in the Office, a petition may be filed pursuant to § 1.137 to revive a reexamination prosecution terminated under § 1.957(b) or limited under § 1.957(c) if the delay in response was unintentional.

PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE

■ 44. The authority citation for part 3 continues to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 2(b)(2).

■ 45. Section 3.11 is amended by revising paragraph (a) to read as follows:

§ 3.11 Documents which will be recorded.

(a) Assignments of applications, patents, and registrations, and other documents relating to interests in patent applications and patents, accompanied by completed cover sheets as specified in § 3.28 and § 3.31, will be recorded in the Office. Other documents, accompanied by completed cover sheets as specified in § 3.28 and § 3.31, affecting title to applications, patents, or registrations, will be recorded as provided in this part or at the discretion of the Director.

* * * * *

■ 46. Section 3.31 is amended by revising paragraph (h) to read as follows:

§ 3.31 Cover sheet content.

* * * * *

(h) The assignment cover sheet required by § 3.28 for a patent application or patent will be satisfied by the Patent Law Treaty Model International Request for Recordation of Change in Applicant or Owner Form, Patent Law Treaty Model International Request for Recordation of a License/Cancellation of the Recordation of a License Form, Patent Law Treaty Model Certificate of Transfer Form or Patent Law Treaty Model International Request for Recordation of a Security Interest/Cancellation of the Recordation of a Security Interest Form, as applicable, except where the assignment is also an oath or declaration under § 1.63 of this chapter. An assignment cover sheet required by § 3.28 must contain a conspicuous indication of an intent to utilize the assignment as an oath or declaration under § 1.63 of this chapter.

PART 11—REPRESENTATION OF OTHERS BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

■ 47. The authority citation for 37 CFR part 11 continues to read as follows:

Authority: 5 U.S.C. 500, 15 U.S.C. 1123; 35 U.S.C. 2(b)(2), 32, 41.

■ 48. Section 11.18 is amended by revising paragraph (a) to read as follows:

§ 11.18 Signature and certificate for correspondence filed in the Office.

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, and all documents filed with a hearing officer in a disciplinary proceeding, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Office must bear a signature, personally signed or inserted by such practitioner, in compliance with § 1.4(d) or § 2.193(a) of this chapter.

* * * * *

Dated: October 7, 2013.

Teresa Stanek Rea,

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

[FR Doc. 2013–24471 Filed 10–18–13; 8:45 am]

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FEDERAL REGISTER

Vol. 78 Monday,

No. 203 October 21, 2013

Part III

The President

Memorandum of September 27, 2013—Delegation of Authority Under Sections 552(c)(2) and 614 of the Foreign Assistance Act of 1961, as Amended

Presidential Determination No. 2014–01 of October 2, 2013—Refugee Admissions for Fiscal Year 2014

Federal Register
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Presidential Documents

Title 3—

The President

Memorandum of September 27, 2013

Delegation of Authority Under Sections 552(c)(2) and 614 of the Foreign Assistance Act of 1961, as Amended

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State:

(1) the authority under section 552(c)(2) of the Foreign Assistance Act of 1961, as amended (FAA), to direct the drawdown of up to $15 million in nonlethal commodities and services from any department or agency of the United States to provide assistance for the Syrian Opposition Coalition (SOC) and the Supreme Military Council (SMC), and to make the determinations required under such section to direct such a drawdown; and

(2) the authority under section 614 of the FAA to determine whether it is important to the security interests of the United States to furnish such assistance to the SOC and the SMC without regard to any other provision of law within the purview of section 614(a)(1) of the FAA.

You are authorized and directed to publish this memorandum in the *Federal Register.*

THE WHITE HOUSE,
Washington, September 27, 2013

[FR Doc. 2013–24777
Filed 10–18–13; 11:15 am]
Billing code 3295–F4

Presidential Documents

Presidential Determination No. 2014–01 of October 2, 2013

Refugee Admissions for Fiscal Year 2014

Memorandum for the Secretary of State

In accordance with section 207 of the Immigration and Nationality Act (the ''Act'') (8 U.S.C. 1157), as amended, and after appropriate consultations with the Congress, I hereby make the following determinations and authorize the following actions:

The admission of up to 70,000 refugees to the United States during fiscal year (FY) 2014 is justified by humanitarian concerns or is otherwise in the national interest; provided that this number shall be understood as including persons admitted to the United States during FY 2014 with Federal refugee resettlement assistance under the Amerasian immigrant admissions program, as provided below.

The 70,000 admissions numbers shall be allocated among refugees of special humanitarian concern to the United States in accordance with the following regional allocations; provided that the number of admissions allocated to the East Asia region shall include persons admitted to the United States during FY 2014 with Federal refugee resettlement assistance under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, as contained in section 101(e) of Public Law 100–202 (Amerasian immigrants and their family members):

Africa	15,000
East Asia	14,000
Europe and Central Asia	1,000
Latin America/Caribbean	5,000
Near East/South Asia	33,000
Unallocated Reserve	2,000

The 2,000 unallocated refugee numbers shall be allocated to regional ceilings, as needed. Upon providing notification to the Judiciary Committees of the Congress, you are hereby authorized to use unallocated admissions in regions where the need for additional admissions arises.

Additionally, upon notification to the Judiciary Committees of the Congress, you are further authorized to transfer unused admissions allocated to a particular region to one or more other regions, if there is a need for greater admissions for the region or regions to which the admissions are being transferred. Consistent with section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, I hereby determine that assistance to or on behalf of persons applying for admission to the United States as part of the overseas refugee admissions program will contribute to the foreign policy interests of the United States and designate such persons for this purpose.

Consistent with section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)), and after appropriate consultation with the Congress, I also specify that, for FY 2014, the following persons may, if otherwise qualified, be considered refugees for the purpose of admission to the United States within their countries of nationality or habitual residence:

a. Persons in Cuba

b. Persons in Eurasia and the Baltics

c. Persons in Iraq

d. In exceptional circumstances, persons identified by a United States Embassy in any location

You are authorized and directed to report this determination to the Congress immediately and to publish it in the *Federal Register.*

THE WHITE HOUSE,
Washington, October 2, 2013

[FR Doc. 2013–24779
Filed 10–18–13; 11:15 am]
Billing code 3295–F4

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