

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A temporary § 165.T13–011 is added to read as follows:

§ 165.T13–011 Safety Zone; Columbia River Astoria, Oregon.

(a) *Location.* The following area is a safety zone: All waters of the Columbia River at Astoria, Oregon within a 500 yard radius of the 11th street dock, position 46 degrees 11.45 minutes north latitude, 123 degrees 49.88 minutes west longitude [Datum NAD 1983].

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

(c) *Effective dates.* This regulation is effective on August 12, 2001 from 9 p.m. to 11 p.m. (PDT).

Dated: July 23, 2001.

James D. Spitzer,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 01–19069 Filed 7–30–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No. 991105297–1167–04]

RIN 0651–AB01

Revision of Patent Fees for Fiscal Year 2002

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (referred to as “we”, “us”, or “our” in this notice) is adjusting certain patent fee amounts to reflect fluctuations in the Consumer Price Index (CPI). Also, we are adjusting, by a corresponding amount, a few patent fees that track the affected fees. Our Director is authorized to adjust these fees annually by the CPI to recover the higher costs associated with doing business. In addition, we are changing the maintenance fee correspondence address to better serve our customers, and amending a fee to reflect current business practice. These amendments will keep our fees aligned with the CPI and streamline administrative matters. No trademark fee will be adjusted.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT:

Matthew Lee by e-mail at matthew.lee@uspto.gov, or by telephone at (703) 305–8051.

SUPPLEMENTARY INFORMATION: This final rule was proposed in a notice of proposed rulemaking published at 66 FR 23642 on May 9, 2001. This rule adjusts our fees in accordance with the applicable provisions of title 35, United States Code, as amended by the Consolidated Appropriations Act, Fiscal Year 2000 (which incorporated the Intellectual Property and Communications Omnibus Reform Act of 1999) (Pub. L. 106–113). This final rule also adjusts, by a corresponding amount, a few patent fees (37 CFR 1.17(e), (r), (s), and (t)) that track statutory fees (either 37 CFR 1.16(a) or 1.17(m)). The proposal to adjust a trademark fee has been withdrawn; trademark fees are not affected by this final rule.

In addition, this final rule changes the maintenance fee correspondence address. The address change for maintenance fee payments benefits our customers by allowing the payments to be processed within 24 hours of receipt, rather than the current time frame of three to five days. Likewise, the funds are deposited more quickly with the United States Treasury. The address change for correspondence related to maintenance fees other than payments of maintenance fees in patents permits us to respond in a timelier manner. Maintenance fee correspondence received at the “Box M Fee” address will be forwarded to the appropriate address in § 1.1(d).

Background

Statutory Provisions

Patent fees are authorized by 35 U.S.C. 41 and 35 U.S.C. 376. For fees paid under 35 U.S.C. 41(a) and (b), independent inventors, small business concerns, and nonprofit organizations who meet the requirements of 35 U.S.C. 41(h)(1) are entitled to a fifty-percent reduction.

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

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

each black and white copy of a patent, and for library services.

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

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

Fee Adjustment Level

The patent statutory fees established by 35 U.S.C. 41(a) and (b) will be adjusted on October 1, 2001, to reflect any fluctuations occurring during the previous twelve months in the Consumer Price Index for all urban consumers (CPI–U). In calculating these fluctuations, the Office of Management and Budget (OMB) has determined that we should use CPI–U data as determined by the Secretary of Labor. In accordance with previous fee-setting methodology, we use the Administration’s projected CPI–U for the twelve-month period ending September 30, 2001, which is 3.6 percent. Based on this projection, patent statutory fees will be adjusted by 3.6 percent.

Certain patent processing fees established under 35 U.S.C. 41(d), 119, 120, 132(b), 376, and Public Law 103–465 (the Uruguay Round Agreements Act) will be adjusted to reflect fluctuations in the CPI.

The fee amounts were rounded by applying standard arithmetic rules so that the amounts rounded will be convenient to the user. Fees of \$100 or more for other than a small entity were rounded to the nearest \$10. Fees of less than \$100 were rounded to an even number so that any comparable small entity fee will be a whole number.

General Procedures

Any fee amount that is paid on or after the effective date of the fee increase will be subject to the new fees then in effect. The amount of the fee to be paid will be determined by the time of filing. The time of filing will be determined either according to the date of receipt in our office or the date reflected on a proper Certificate of Mailing or Transmission, where such a certificate is authorized under 37 CFR 1.8. Use of a Certificate of Mailing or Transmission is not authorized for items that are specifically excluded from the provisions of § 1.8. Items for which a Certificate of Mailing or Transmission under § 1.8 are not authorized include, for example, for filing of Continued

Prosecution Applications (CPAs) under § 1.53(d) and other national and international applications for patents. See 37 CFR 1.8(a)(2).

Under 37 CFR 1.10(a), any correspondence delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) is considered filed or received in our office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation.

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

Discussion of Specific Rules

37 CFR 1.1 Addresses for Correspondence with the United States Patent and Trademark Office

Section 1.1, paragraphs (a) and (d), are revised to change the maintenance fee correspondence address.

37 CFR 1.16 National Application Filing Fees

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

37 CFR 1.17 Patent Application and Reexamination Processing Fees

Section 1.17, paragraphs (a)(2) through (a)(5), (b) through (e), (m), and (r) through (t), are revised to adjust fees established therein to reflect fluctuations in the CPI.

37 CFR 1.18 Patent Post Allowance (Including Issue) Fees

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

37 CFR 1.20 Post Issuance Fees

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

37 CFR 1.21 Miscellaneous Fees and Charges

Section 1.21, paragraph (o), is revised to reflect current business practice. We no longer use or provide access to the Automated Patent System.

37 CFR 1.492 National Stage Fees

Section 1.492, paragraphs (a)(1) through (a)(3), (a)(5), (b), and (d), are revised to adjust fees established therein to reflect fluctuations in the CPI.

Response to Comments

We received several comments in response to the notice of proposed

rulemaking published at 66 FR 23642 on May 9, 2001. The comments and our responses to the comments follow:

Comment: One comment suggested that patentees would likely be unaware of the change of address for mailing maintenance fee payments, which would result in the patent expiring and the patentee incurring a surcharge to reinstate the patent.

Response: The address change for maintenance fee payments will permit the payments to be processed without delay, and the funds to be deposited more quickly. Maintenance fee payments received at the old mailing address ("Box M Fee") will be forwarded to the new mailing address in § 1.1(d)(1) for processing. Therefore, the patentee will not be adversely affected by the address change.

Comment: One comment recommended that § 1.1(d) be changed so that maintenance fee payments receive the date of actual receipt in our office or the date reflected on a proper Certificate of Mailing or Transmission when sent to the old mailing address ("Box M Fee"). In addition, it was also recommended that the address in § 1.1(d)(2) be clarified.

Response: Maintenance fee payments sent inadvertently to the old mailing address will receive the date of actual receipt in our office or the date reflected on a proper Certificate of Mailing or Transmission when forwarded by the office to the new mailing address in § 1.1(d)(1) for processing. For example, if we receive a paper that does not include a Certificate of Mailing or Transmission on September 28, 2001, in Box M Fee, the paper will be accorded a date of receipt of September 28, 2001. The paper, after we forward it to the new mailing address in § 1.1(d)(1) for processing, will continue to be accorded the September 28, 2001, date of receipt for processing of the maintenance fee. Again, the patentee will not be adversely affected by the address change. Section 1.1(d)(2) has been clarified to indicate that correspondence related to maintenance fees other than payments of maintenance fees in patents must be sent to the Washington, D.C. address.

Comment: Two comments stated that we should not increase fees for fiscal year 2002, since millions of dollars are being diverted to fund other Federal Government operations and are not being used to improve our performance, services, or facilities.

Response: Our budget for fiscal year 2002 is comprised of the expected fiscal year 2002 fee revenue (less a designated carryover amount) added to carryover amounts from prior fiscal years. If fees

are not adjusted by CPI, the anticipated fee revenue for fiscal year 2002 would be lower; this in turn would reduce the available funding and have a negative impact on our operations. Therefore, adjusting our fees by CPI is critical to ensure adequate funding is available.

Other Considerations

This final rule contains no information collection requirements within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the final rule change will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The final rule change increases fees to reflect the change in the CPI as authorized by 35 U.S.C. 41(f). Further, the principal impact of the major patent fees has already been taken into account in 35 U.S.C. 41(h)(1), which provides small entities with a fifty-percent reduction in the major patent fees. We received roughly 92,000 patent applications last year from small entities. Since the average small entity fee will increase by less than \$14.00, with a minimum increase of \$2.00 and a maximum increase of \$55.00, there will not be a significant economic impact on a substantial number of small entities due to this final rule change.

List of Subjects in 37 CFR Part 1

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

For the reasons set forth in the preamble, we are amending title 37 of the Code of Federal Regulations, Part 1, as set forth below.

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 paragraphs (a) introductory text and (d) to read as follows:

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

(a) Except for paragraphs (a)(3)(i) and (ii), and (d)(1) of this section, all correspondence intended for the United States Patent and Trademark Office must be addressed to either "Commissioner of Patents and Trademarks, Washington, DC 20231" or to specific areas within the Office as set out in paragraphs (a)(1), (2) and (3)(iii) of this section. When appropriate, correspondence should also be marked for the attention of a particular office or individual.

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(d) Maintenance fee correspondence.

(1) Payments of maintenance fees in patents not submitted electronically over the Internet should be mailed to: United States Patent and Trademark Office, P.O. Box 371611, Pittsburgh, PA 15250-1611.

(2) Correspondence related to maintenance fees other than payments of maintenance fees in patents is not to be mailed to P.O. Box 371611, Pittsburgh, PA 15250-1611, but must be mailed to: Box M Correspondence, Commissioner of Patents and Trademarks, Washington, DC 20231.

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

§ 1.16 National application filing fees.

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

By a small entity (§ 1.27(a))—\$370.00
By other than a small entity—\$740.00

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

By a small entity (§ 1.27(a))—\$42.00
By other than a small entity—\$84.00

* * * * *

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

By a small entity (§ 1.27(a))—\$140.00
By other than a small entity—\$280.00

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(f) Basic fee for filing each design application:

By a small entity (§ 1.27(a))—\$165.00
By other than a small entity—\$330.00

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

By a small entity (§ 1.27(a))—\$255.00
By other than a small entity—\$510.00

(h) Basic fee for filing each reissue application:

By a small entity (§ 1.27(a))—\$370.00
By other than a small entity—\$740.00

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

By a small entity (§ 1.27(a))—\$42.00
By other than a small entity—\$84.00

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(k) Basic fee for filing each provisional application:

By a small entity (§ 1.27(a))—\$80.00
By other than a small entity—\$160.00

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4. Section 1.17 is amended by revising paragraphs (a)(2) through (a)(5), (b) through (e), (m), and (r) through (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

(a) * * *

(1) * * *

(2) For reply within second month:

By a small entity (§ 1.27(a))—\$200.00
By other than a small entity—\$400.00

(3) For reply within third month:

By a small entity (§ 1.27(a))—\$460.00
By other than a small entity—\$920.00

(4) For reply within fourth month:

By a small entity (§ 1.27(a))—\$720.00
By other than a small entity—\$1,440.00

(5) For reply within fifth month:

By a small entity (§ 1.27(a))—\$980.00
By other than a small entity—\$1,960.00

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

By a small entity (§ 1.27(a))—\$160.00
By other than a small entity—\$320.00

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

By a small entity (§ 1.27(a))—\$160.00
By other than a small entity—\$320.00

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

By a small entity (§ 1.27(a))—\$140.00
By other than a small entity—\$280.00

(e) To request continued examination pursuant to § 1.114:

By a small entity (§ 1.27(a))—\$370.00
By other than a small entity—\$740.00

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(m) For filing a petition for revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated reexamination proceeding under 35 U.S.C. 41(a)(7) (§ 1.137(b)):

By a small entity (§ 1.27(a))—\$640.00
By other than a small entity—\$1,280.00

* * * * *

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

By a small entity (§ 1.27(a))—\$370.00
By other than a small entity—\$740.00

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

By a small entity (§ 1.27(a))—\$370.00
By other than a small entity—\$740.00

(t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) or (c) (§§ 1.55 and 1.78)—\$1,280.00

5. Section 1.18 is amended by revising paragraphs (a) through (c) to read as follows:

§ 1.18 Patent post allowance (including issue) fees.

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

By a small entity (§ 1.27(a))—\$640.00
By other than a small entity—\$1,280.00

(b) Issue fee for issuing a design patent:

By a small entity (§ 1.27(a))—\$230.00
By other than a small entity—\$460.00

(c) Issue fee for issuing a plant patent:

By a small entity (§ 1.27(a))—\$310.00
By other than a small entity—\$620.00

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6. Section 1.20 is amended by revising paragraphs (e) through (g) to read as follows:

§ 1.20 Post issuance fees.

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(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years; the fee is due by three years and six months after the original grant:

By a small entity (§ 1.27(a))—\$440.00
By other than a small entity—\$880.00

(f) For maintaining an original or reissue patent, except a design or plant

patent, based on an application filed on or after December 12, 1980, in force beyond eight years; the fee is due by seven years and six months after the original grant:

By a small entity (§ 1.27(a))—\$1,010.00
By other than a small entity—\$2,020.00

(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond twelve years; the fee is due by eleven years and six months after the original grant:

By a small entity (§ 1.27(a))—\$1,550.00
By other than a small entity—\$3,100.00

* * * * *

§ 1.21 [Amended]

7. Section 1.21 is amended by removing and reserving paragraph (o).

8. Section 1.492 is amended by revising paragraphs (a)(1) through (a)(3), (a)(5), (b), and (d) to read as follows:

§ 1.492 National stage fees.

* * * * *

(a) The basic national fee:
(1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.27(a))—\$355.00
By other than a small entity—\$710.00

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

By a small entity (§ 1.27(a))—\$370.00
By other than a small entity—\$740.00

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

By a small entity (§ 1.27(a))—\$520.00
By other than a small entity—\$1,040.00

(4) * * *

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

By a small entity (§ 1.27(a))—\$445.00
By other than a small entity—\$890.00

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

By a small entity (§ 1.27(a))—\$42.00
By other than a small entity—\$84.00

* * * * *

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

By a small entity (§ 1.27(a))—\$140.00
By other than a small entity—\$280.00

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Dated: July 25, 2001.

Nicholas P. Godici,

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

[FR Doc. 01-19021 Filed 7-30-01; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Chapter I

Centers for Medicare & Medicaid Services

42 CFR Chapter IV

Office of Inspector General—Health Care

42 CFR Chapter V

Office of the Secretary

45 CFR Subtitle A

Office of Family Assistance (Assistance Programs),

Administration for Children and Families

45 CFR Chapter II

Office of Child Support Enforcement

45 CFR Chapter III

[CMS-9010-FC]

RIN 0938-AL02

Medicare and Medicaid Programs; Change of Agency Name: Technical Amendments

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS

ACTION: Final rule with comment period.

SUMMARY: In accordance with the name change of the Health Care Financing Administration to the “Centers for Medicare & Medicaid Services,” this

technical regulation revises all references to “Health Care Financing Administration” and “HCFA” in chapters I, IV and V of title 42 and subtitle A and chapters II and III of title 45 of the Code of Federal Regulations. This regulation also makes conforming changes to the general definitions sections.

DATES: Effective date: July 31, 2001.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on October 1, 2001.

ADDRESSES: In commenting, please refer to file code CMS-9010-FC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Mail written comments (one original and three copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-9010-FC, P.O. Box 8015, Baltimore, MD 21244-8015.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses: Room 443-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5-14-03, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Margaret Teeters, (410) 786-4678.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, call telephone number (410) 786-7197.

I. Background

The Secretary of the Department of Health and Human Services (the Secretary) announced on June 14, 2001, the new name for the Health Care Financing Administration (HCFA): The