

to vessel traffic for four hours a day from 12 midnight to 4 a.m., from November 18, 2002 through November 21, 2002. In addition, the bridge may remain closed to vessel traffic for two weekends from 9 p.m. on Saturday through 9 a.m. on Sunday, from December 7, 2002 through December 8, 2002, and from December 14, 2002 through December 15, 2002. This temporary deviation is necessary to facilitate repairs at the bridge.

**DATES:** This deviation is effective from November 18, 2002 through December 15, 2002.

**FOR FURTHER INFORMATION CONTACT:** Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668-7165.

**SUPPLEMENTARY INFORMATION:** The Amtrak Portal Bridge has a vertical clearance in the closed position of 23 feet at mean high water and 28 feet at mean low water. The existing drawbridge operation regulations are at 33 CFR 117.723.

The bridge owner, National Passenger Railroad Corporation (Amtrak), requested a temporary deviation from the drawbridge operation regulations to facilitate necessary maintenance, the replacement of the cable lift system, at the bridge. The bridge must remain in the closed position to navigation to perform these repairs. Vessels that can pass under the bridge without a bridge opening may do so at all times.

The Coast Guard coordinated this closure with the mariners who normally use this waterway to help facilitate this necessary bridge repair and to minimize any disruption to the marine transportation system.

Under this temporary deviation the Amtrak Portal Bridge may remain closed to vessel traffic for four days from 12 midnight to 4 a.m., November 18, 2002 through November 21, 2002. In addition, the bridge may remain closed to vessel traffic for two weekends from 9 p.m. on Saturday through 9 a.m. on Sunday, from December 7, 2002 through December 8, 2002 and from December 14, 2002 through December 15, 2002.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: November 18, 2002.

**V.S. Crea,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 02-30104 Filed 11-26-02; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### 37 CFR Parts 1 and 2

[Docket No. 2003-C-004]

RIN 0651-AB51

#### Revision of Patent and Trademark Fees for Fiscal Year 2003

**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 and a trademark fee amount 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. The Director is authorized to adjust these fees annually by the CPI to recover the higher costs associated with doing business. In addition, we are amending several patent and trademark document supply fees to streamline operations and to benefit our customers.

Legislation has also been introduced in the Congress that would alter our fees. If enacted, this legislation would supersede many of the fees identified in this final rule.

**EFFECTIVE DATE:** January 1, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Matthew Lee by e-mail at [matthew.lee@uspto.gov](mailto:matthew.lee@uspto.gov), by telephone at (703) 305-8051, or by fax at (703) 305-8007.

**SUPPLEMENTARY INFORMATION:** This final 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) (Public Law 106-113), and section 1113 of title 15, United States Code. 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)).

In addition, this final rule amends several patent and trademark document supply fees. The wider availability of patent and trademark image stores to retrieve and make copies has allowed us to process and fill customer orders for issued patents, registered trademarks, and both patent and trademark applications-as-filed more predictably and in shorter total turnaround times,

regardless of whether a copy was ordered for regular or expedited delivery service. Therefore, we are eliminating the previous 37 CFR 1.19(a)(1)(ii), (a)(1)(iii), (b)(1)(i), 2.6(b)(1)(ii), (b)(1)(iii), and (b)(2)(i) fees and reducing the previous 37 CFR 1.19(b)(1)(ii) and 2.6(b)(2)(ii) fees. The cost benefit from streamlining our operations will be passed on to our customers. “At cost” services are still available for urgent (e.g., same day) service.

Legislation has been introduced in the Congress that would alter our fees. Customers should be aware that legislative changes to our fees would supersede this final rule. When such changes occur, we will make corresponding rule changes by publication in the **Federal Register**. Customers may wish to refer to the official USPTO Web site ([www.uspto.gov](http://www.uspto.gov)) for the most current fee amounts. Official notices of any fee changes will appear in the **Federal Register** and the *Official Gazette of the Patent and Trademark Office*.

### Background

#### Statutory Provisions

Patent fees are authorized by 35 U.S.C. 41, 119, 120, 132(b) and 376. For fees paid under 35 U.S.C. 41(a) and (b) and 132(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.

Section 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.

Section 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 standard library service.

Section 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*.

Section 1113 of title 15, United States Code, authorizes the Director to establish fees for the filing and processing of an application for the registration of a trademark or other

mark, and for all other services and materials relating to trademarks and other marks.

Section 1113(a) of title 15, United States Code, allows trademark fees to be adjusted once each year to reflect, in the aggregate, any fluctuations during the preceding twelve months in the CPI.

Section 1113(a) allows new trademark fee amounts to 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 January 1, 2003, to reflect fluctuations occurring during the twelve-month period from October 1, 2001, through September 30, 2002, in the Consumer Price Index for All Urban Consumers (CPI-U). The Office of Management and Budget has advised us that in calculating these fluctuations, we should use CPI-U data as determined by the Secretary of Labor. In accordance with previous fee-setting methodology, we base this fee adjustment on the Administration's actual CPI-U for the twelve-month period ending September 30, 2002, which is 1.5 percent. Based on this actual CPI-U, patent statutory fees will be adjusted by 1.5 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.

A trademark processing fee established under 15 U.S.C. 1113 will be adjusted to reflect fluctuations in the CPI.

Several patent and trademark document supply fees established under 35 U.S.C. 41(d) and 15 U.S.C. 1113(a) will be amended to streamline operations and benefit our customers.

The fee amounts were rounded by applying standard arithmetic rules so that the amounts rounded will be convenient to the user. Fees for other than a small entity of \$100 or more 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 adjustment 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, 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).

Patent-related 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. See 37 CFR 1.10(a)(1). The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. Certain trademark documents sent by the "Express Mail Post Office to Addressee" service are deemed filed on the date of receipt in our office. See 37 CFR 1.10(a)(1)(ii).

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

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

##### *Section 1.16 National Application Filing Fees*

Section 1.16, paragraphs (a), (g), and (h), are revised to adjust fees established therein to reflect fluctuations in the CPI.

##### *Section 1.17 Patent Application and Reexamination Processing Fees*

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

##### *Section 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.

##### *Section 1.19 Document Supply Fees*

Section 1.19, paragraphs (a)(1) and (b)(1), are amended to streamline operations and to benefit our customers.

##### *Section 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.

##### *Section 1.492 National Stage Fees*

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

#### *Section 2.6 Trademark Service Fees*

Section 2.6, paragraph (a)(1), is revised to adjust the fee established therein to reflect fluctuations in the CPI.

Section 2.6, paragraphs (b)(1) and (b)(2), are amended to streamline operations and to benefit our customers.

#### **Response to Comments**

We received several comments in response to the notice of proposed rulemaking published at 67 FR 30634 on May 7, 2002. The comments and our responses to the comments follow:

*Comment:* One comment stated that we should not increase the trademark application fee for fiscal year 2003, since millions of dollars are being diverted to fund other Federal Government operations and are not being used to improve our performance or services.

*Response:* Our budget for fiscal year 2003 is comprised of the expected fiscal year 2003 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 2003 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.

*Comment:* One comment stated that the publication fee under 37 CFR 1.18(d) should be reduced by fifty-percent for independent inventors, small business concerns, and nonprofit organizations.

*Response:* The Director does not have the authority to provide for a fifty-percent reduction.

*Comment:* One comment stated that the Director does not have the authority to adjust patent fees by a projected CPI.

*Response:* Due to the timing of this year's fee adjustment, we have used the actual CPI.

#### **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 Deputy General Counsel for General Law of the United States Patent and Trademark Office 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 98,000 patent applications (approximately 30 percent of total patent applications) last year from small entities. Since the average small entity fee will increase by less than \$7.00, with a minimum increase of \$5.00 and a maximum increase of \$25.00, there will not be a significant economic impact on a substantial number of small entities due to this final rule change.

**Lists of Subjects**

*37 CFR Part 1*

Administrative practice and procedure, Patents.

*37 CFR Part 2*

Administrative practice and procedure, Trademarks.

For the reasons set forth in the preamble, we are amending title 37 of the Code of Federal Regulations, parts 1 and 2, as set forth below.

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

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

**Authority:** 35 U.S.C. 2, unless otherwise noted.

2. Section 1.16 is amended by revising paragraphs (a), (g), and (h) 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))—\$375.00  
 By other than a small entity—\$750.00  
 \* \* \* \* \*

(g) Basic fee for filing each plant application, except provisional applications:  
 By a small entity (§ 1.27(a))—\$260.00  
 By other than a small entity—\$520.00

(h) Basic fee for filing each reissue application:  
 By a small entity (§ 1.27(a))—\$375.00  
 By other than a small entity—\$750.00  
 \* \* \* \* \*

3. Section 1.17 is amended by revising paragraphs (a)(2) through (a)(5), (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))—\$205.00  
 By other than a small entity—\$410.00
- (3) For reply within third month:  
 By a small entity (§ 1.27(a))—\$465.00  
 By other than a small entity—\$930.00
- (4) For reply within fourth month:  
 By a small entity (§ 1.27(a))—\$725.00  
 By other than a small entity—\$1,450.00
- (5) For reply within fifth month:  
 By a small entity (§ 1.27(a))—\$985.00  
 By other than a small entity—\$1,970.00

\* \* \* \* \*

(e) To request continued examination pursuant to § 1.114:  
 By a small entity (§ 1.27(a))—\$375.00  
 By other than a small entity—\$750.00  
 \* \* \* \* \*

(m) For filing a petition for the 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))—\$650.00  
 By other than a small entity—\$1,300.00  
 \* \* \* \* \*

(r) For entry of a submission after final rejection under § 1.129(a):  
 By a small entity (§ 1.27(a))—\$375.00  
 By other than a small entity—\$750.00

(s) For each additional invention requested to be examined under § 1.129(b):  
 By a small entity (§ 1.27(a))—\$375.00  
 By other than a small entity—\$750.00

(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)—\$1,300.00

4. 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))—\$650.00  
 By other than a small entity—\$1,300.00

(b) Issue fee for issuing a design patent:  
 By a small entity (§ 1.27(a))—\$235.00  
 By other than a small entity—\$470.00

(c) Issue fee for issuing a plant patent:  
 By a small entity (§ 1.27(a))—\$315.00  
 By other than a small entity—\$630.00  
 \* \* \* \* \*

5. Section 1.19 is amended by revising paragraphs (a)(1) and (b)(1) to read as follows:

**§ 1.19 Document supply fees.**

\* \* \* \* \*

(a) \* \* \*

(1) Printed copy of the paper portion of a patent application publication or patent, including a design patent, statutory invention registration, or defensive publication document. Service includes preparation of copies by the Office within two to three business days and delivery by United States Postal Service; and preparation of copies by the Office within one business day of receipt and delivery to an Office Box or by electronic means (e.g., facsimile, electronic mail)—\$3.00  
 \* \* \* \* \*

(b) \* \* \*

(1) Certified or uncertified copy of the paper portion of patent application as filed processed within seven calendar days—\$20.00  
 \* \* \* \* \*

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

**§ 1.20 Post issuance fees.**

\* \* \* \* \*

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

(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))—\$1,025.00  
 By other than a small entity—\$2,050.00

(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))—\$1,575.00  
 By other than a small entity—\$3,150.00  
 \* \* \* \* \*

7. Section 1.492 is amended by revising paragraphs (a)(1) through (a)(3), and (a)(5) 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))—\$360.00  
 By other than a small entity—\$720.00

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

By a small entity (§ 1.27(a))—\$375.00  
 By other than a small entity—\$750.00

(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))—\$530.00  
 By other than a small entity—\$1,060.00

(4) \* \* \*

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japan Patent Office:  
 By a small entity (§ 1.27(a))—\$450.00  
 By other than a small entity—\$900.00

\* \* \* \* \*

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

1. The authority citation for 37 CFR part 2 continues to read as follows:

**Authority:** 35 U.S.C. 2, unless otherwise noted.

2. Section 2.6 is amended by revising paragraphs (a)(1), (b)(1) and (b)(2) to read as follows:

**§ 2.6 Trademark fees.**

\* \* \* \* \*

(a) \* \* \*

(1) For filing an application, per class—\$335.00

\* \* \* \* \*

(b) \* \* \*

(1) For printed copy of registered mark, copy only. Service includes preparation of copies by the Office within two to three business days

and delivery by United States Postal Service; and preparation of copies by the Office within one business day of receipt and delivery to an Office Box or by electronic means (e.g., facsimile, electronic mail)—\$3.00

(2) Certified or uncertified copy of trademark application as filed processed within seven calendar days—\$15.00

\* \* \* \* \*

Dated: November 21, 2002.

**James E. Rogan,**

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

[FR Doc. 02-30086 Filed 11-26-02; 8:45 am]

**BILLING CODE 3510-16-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[IN144-2; FRL7414-2]

**Approval and Promulgation of Implementation Plans; Indiana; Withdrawal of Direct Final Rule**

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to an adverse comment, the EPA is withdrawing the direct final rule revising particulate matter (PM) control requirements for certain natural gas combustion sources in Indiana. In the direct final rule published on October 11, 2002 (67 FR 63268), we stated that if we receive adverse comment by November 12, 2002, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comments received in a subsequent final action based upon the proposed action also published on October 11, 2002 (67 FR 63353). EPA will not institute a second comment period on this action.

**EFFECTIVE DATE:** The direct final rule is withdrawn as of November 27, 2002.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6524.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Particulate matter.

Dated: November 19, 2002.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

Accordingly, the addition of 40 CFR 52.770(c)(152) is withdrawn as of November 27, 2002.

[FR Doc. 02-30118 Filed 11-26-02; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 141 and 142**

[FRL-7413-9]

RIN 2040-AD06

**National Primary Drinking Water Regulations: Minor Revisions to Public Notification Rule, Consumer Confidence Report Rule and Primacy Rule**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing changes to the health effects language for di(2-ethylhexyl) adipate (DEHA) and di(2-ethylhexyl) phthalate (DEHP) in the Public Notification (PN) Rule and the Consumer Confidence Report (CCR) Rule under the Safe Drinking Water Act (SDWA). Today's rule also makes minor corrections to Appendix A of the CCR Rule. These changes include: correcting drinking water source information listed for copper, changing the placement of regulatory and health effects information for disinfection by-products (i.e., bromate, chloramines, chlorite, chlorine, and chlorine dioxide), and correcting the reference "chloride dioxide" to "chlorine dioxide." The Agency is also amending the listing for three contaminants (i.e., bromate, chlorite, and total trihalomethanes) to correct source information given in Appendix A. The appendix listed "by-product of chlorination," a specific method of disinfection, as the major source for these contaminants in drinking water. The source information in Appendix A is being amended to include the more general term "by-product of drinking water disinfection" for these contaminants. In addition, the Agency is revising the Primacy Rule to remove regulations pertaining to the Administrator's authority to waive national primary drinking water