When there are no obvious ramifications, why would an inventor divulge a Best Mode when they can keep it as a trade secret? To preserve the Congress's intent of full disclosure in exchange for the government grant of monopoly, a solution based on a guest post by Professor Christal Sheppard, the University of Nebraska Lincoln College of Law in Dennis Crouch's Patently-O is proposed.

The USPTO could provide a check box in patent application filing forms (patent application transmittal), stating:

[ ] I (we), the inventor(s) acknowledge that a Best Mode (preferred embodiment of the invention) is disclosed and are aware that failure to disclose a Best Mode can result in up to a five year prison term.

or

[ ] I , the attorney or agent for applicant(s) acknowledge that a Best Mode (preferred embodiment of the invention) as disclosed by the inventor(s) is disclosed and the inventor(s) are aware that failure to disclose such a Best Mode can result in up to a five year prison term.

Alternatively, a similar affirmation from the inventor(s) only can be required in the Declaration.

If any abuses are discovered, the above affirmative act can be used to initiate action under 35 U.S.C. § 32 and 18 U.S.C. § 1001 as it may allow up to a five year prison term.

Best regards,
Sanjeev K. Singh, PhD
Patent Agent, Reg. No. 64,418