USPTO Trademark Fee Adjustment—

Aggregate Revenue Estimating Methodology

This document provides an explanation of the figures and calculations underlying the fee estimates found in the aggregate revenue tables developed in support of the Final Rule. The complete set of tables, one for each of the four alternatives considered, is available on the [fee setting and adjusting section of the USPTO website](http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting). This document has five sections:

1. **Background**
2. **Final Rule Alternative**
3. **Across-the-Board Adjustment Alternative**
4. **Unit Cost Recovery Alternative**
5. **Baseline - Current Fee Schedule Alternative**

Section I provides background information and additional details on the revenue estimating methodology that the Office uses to develop aggregate fee estimates for the four alternatives considered. Sections II-V explain the approach for calculating the aggregate revenue estimates for each alternative. Questions related to the aggregate revenue estimating methodologies discussed in the narrative are welcome. For further information, contact Brendan Hourigan, Office of Planning and Budget, by telephone at (571) 272-8966.

# SECTION I: BACKGROUND

The aggregate revenue tables provide current and new fee rates, estimated workloads (requests for services), and projected fee collections at the individual fee code level for each of the years FY 2021 through FY 2025 for each of the four alternatives considered. For a description of how individual fee rates were determined for each alternative, see the Regulatory Flexibility Act section in the Final Rule.

# SECTION II: FINAL RULE ALTERNATIVE

The aggregate revenue table for the Final Rule alternative presents aggregate fee estimates based on the fee rates established in the Final Rule. Columns A through H are fee rates from FY 2020 to FY 2025 based on the Final Rule.[[1]](#footnote-1) Column A shows current fee rates. Column B indicates fee rates in the Final Rule that were to be implemented on August 29, 2020.[[2]](#footnote-2) These fees remain the same through FY 2025 (column F).

Columns G through K are workloads projected from FY 2021 to FY 2025. Each column represents the workloads for each fiscal year.. In the case of fees that have a variable fee rate (for example, the fee to collect payment for a partial service charge related to closing a deposit account, 9209T), values in columns G through K reflect the anticipated workloads associated with that service in aggregate dollars rather than the number of individual requests for service, as these columns are used for fees with fixed fee rates.

Columns L through P are projected revenues from FY 2021 to FY 2025. Each column denotes the aggregate fee collections for each fiscal year. Fee collections are calculated by multiplying the fee rate column and workload column for each fiscal year noted. For instance, column L, which indicates fees collected between October 1, 2020, and September 30, 2021, is calculated by multiplying columns B and G.

# SECTION III: ACROSS-THE-BOARD ADJUSTMENT ALTERNATIVE

This alternative uses the Office’s America Invents Act (AIA) section 10 fee setting authority to apply an inflationary adjustment of 22% to the Baseline fee rates. This alternative is fully described in the Final Regulatory Flexibility Analysis (FRFA) section in the Final Rule. The table calculation methodology for the Across-the-Board Adjustment table is identical to that described in Section II: Final Rule Alternative.

# SECTION IV: UNIT COST RECOVERY ALTERNATIVE

This alternative sets most fee rates at the historical cost of performing the activities related to the particular service in FY 2019. This alternative is fully described in the FRFA section in the Final Rule. The table calculation methodology for the Unit Cost Recovery table is identical to that described in Section II: Final Rule Alternative.

# SECTION V: BASELINE - CURRENT FEE SCHEDULE

This alternative uses fee rates in the current trademark fee schedule that became effective on January 14, 2017. The Baseline is fully described in the FRFA section in the Final Rule. The table calculation methodology for the Baseline -Current Fee Schedule is identical to that described in Section II: Final Rule Alternative.

1. Given the timing of this final rule, the aggregate revenue tables presented in support of the final rule exclude FY 2020 data. FY 2021 data assumes the fee rates from this final rule are in effect for all of FY 2021, based on assumptions at the time they were provided in 85 FR 37040 Notice of Proposed Rulemaking – Trademark Fee Adjustment. [↑](#footnote-ref-1)
2. Projections of aggregate revenues are based on point-in-time estimates, and the circumstances surrounding these assumptions can change quickly. For example, the revenue estimates assumed the new fee rates (based on the FY 2021 Congressional Justification) would become effective on August 29, 2020. As stated in this rule, the effective date has changed. Additionally, since the FY 2021 Congressional Justification was published, workloads and fee collections have been lower than anticipated, in part due to the COVID-19 outbreak. [↑](#footnote-ref-2)