

These are purely personal comments, in the form of suggestions, per the request in 65 FR 132, 7/10/00 for comments to be sent to this email address on this Notice of Propose Rulemaking:

At least the COMMENTS accompanying this new Final rule should make it clear as to this NEW FATAL ABANDONMENT PENALTY in this proposed Rule 136(a)(1) for not supplying all this paperwork and averments to the PTO within an UNDEFINED time period of a PTO demand for reconstruction of the file which the PTO lost, that:

(1) Applicants will be given a minimum of 3 months under this Rule to try to collect and reconstruct all the lost file papers, and to prepare the averments required by this rule. A minimum time period must be provided to insure that the files can be retrieved from storage, and then to provide and mail a clean reproduction. That is, to mask off and copy, or clean off, all amendments, notes, or scribbling on the attorney-file papers.

(2) Regular time extensions by petition for this should be available. [Presumably they should be, since this new time period, and this new ground for abandonment, are non-statutory, and not one of the specified exceptions].

(3) It should be made clear in this Rule that an applicant cannot validly "swear" to having a COMPLETE set of PTO file papers since the PTO may well have miss-mailed or internally lost some of them, so that the applicant never got them, especially, the last one. An applicant can only swear to providing a complete set of the documents it HAS on that application, not a complete copy of all PTO correspondence.

(4) This new abandonment must be "reviveable". For example, what if the PTO sends this new demand-on-pain-of-abandonment to the wrong attorney or wrong address, so that the correct party never gets it?

(5) This Rule is ambiguous as to WHERE, or to WHOM, to "produce" documents for the PTO to copy under 1.252(b)(2). Can that also be clarified by formal comments accompanying the Final Rule?

Thank You,

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