

United States Patent and Trademark Office
Green Technology Pilot Program
Emergency Clearance Request Supporting Statement
OMB CONTROL NUMBER 0651-00xx

A. JUSTIFICATION

1. Necessity of Information Collection

The United States Patent and Trademark Office (USPTO) is implementing a streamlined examination pilot program for patent applications pertaining to green technologies, including greenhouse gas reduction.

The pilot program will to permit applications pertaining to environmental quality, energy conservation, development of renewable energy, or greenhouse gas emission reduction, to be accorded special status for examination and processed in a streamlined procedure that is similar to the first action interview pilot program, without meeting the current requirements of the accelerated examination program. An application that is accorded special status under the Green Technology Pilot Program will be placed on the examiner's special docket throughout its entire course of prosecution before the examiner, and will have special status in any appeal to the Board of Patent Appeals and Interferences (BPAI) and also in the patent publication process.

This pilot will support national and international green technology initiatives and is expected to run for twelve months.

Several requirements must be met in order to participate in the pilot program. A summary of requirements is listed on page 2 of form PTO/SB/420. In general:

- The application must be a non-reissue, non-provisional utility application filed under 35 U.S.C. 111(a), or an international application that has entered the national stage in compliance with 35 U.S.C. 371(c). Reexamination proceedings are excluded from this pilot program.
- The application must also be classified in one of several specific U.S. classifications. The full list of these classifications will be forthcoming as a notice to the public announcing the pilot program.
- The application must contain three or fewer independent claims and twenty or fewer total claims. The application must not contain any multiple dependent claims. For an application that contains more than three independent claims or twenty total claims, or multiple dependent claims, applicants must file a preliminary amendment in compliance with 37 CFR 1.121 to cancel the excess claims and/or the multiple dependent claims at the time the request is filed.
- The claims must be directed to a single invention. If the USPTO determines that the claims are directed to multiple inventions (e.g., in a restriction requirement), the applicant must make an election without traverse or withdraw from the pilot program.

Table 1: Statutes and Regulations, Green Technology Pilot Program

Requirement	Statute	Rule
Request for Green Technology Pilot Program	35 U.S.C. §2(b)(2)	37 CFR 1.102

2. Needs and Uses

This information collection is necessary so that patent applicants may participate in the new streamlined Examination Pilot Program for Green Technologies.

The USPTO will provide one form to assist the public with submitting the required information for the program, Request for Green Technology Pilot, USPTO (PTO/SB/420).

Table 2: Needs and Uses, Green Technology Pilot Program

Form and Function	Form #	Needs and Uses
Request for Green Technology Pilot Program	PTO/SB/420	<ul style="list-style-type: none">• Used by the applicant to request participation in the pilot program and submit the required materials• Used by the applicant to request early publication• Used by the USPTO to determine eligibility in the program and to advance the examination of eligible applications

The Information Quality Guidelines from Section 515 of Public Law 106-554, Treasury and General Government Appropriations Act for Fiscal Year 2001, apply to this information collection and comply with all applicable information quality guidelines, i.e. OMB and specific operating unit guidelines.

This proposed collection of information will result in information that will be collected, maintained, and used in a way consistent with all applicable OMB and USPTO Information Quality Guidelines.

3. Use of Information Technology

Requests to participate in this pilot program must be submitted using the agency electronic filing system, EFS web.

The form associated with this collection is available at the EFS Web page.

Patent Application status is available using the USPTO PAIR system.

4. Efforts to Identify Duplication

The information collected is required to process requests to participate in the pilot program and enable accelerated examination. This information is not collected elsewhere and does not result in a duplication of effort. If any of the documents required for participation in the pilot program have already been filed in the U.S. application, the applicant will not need to resubmit those documents and may simply indicate in the request for participation when the documents were previously filed.

5. Minimizing the Burden to Small Entities

This collection does not impose a significant economic burden on small entities or small businesses. The information required by this collection provides the USPTO with the necessary materials for expediting the examination of applications that are eligible for the pilot program. The same information is required from every applicant and is not available from any other source.

6. Consequences of Less Frequent Collection

This information is collected only when the public submits a request to participate in the streamlined examination pilot program for patent applications pertaining to green technologies including greenhouse gas reduction. If this information were not collected, the USPTO would not be able to conduct the pilot program and provide the ensuing examination benefits to eligible applicants. This information could not be collected less frequently.

7. Special Circumstances in the Conduct of Information Collection

There are no special circumstances associated with this collection of information.

8. Consultations Outside the Agency

The USPTO has long-standing relationships with groups from whom patent application data is collected, such as the American Intellectual Property Law Association (AIPLA), as well as patent bar associations, independent inventor groups, and users of our public facilities. Their views are expressed in regularly scheduled meetings and considered in developing proposals for information collection requirements. The USPTO will be posting a 60-Day Federal Register Notice requesting comments on this proposed collection during the Emergency approval time period.

9. Payment or Gifts to Respondents

This information collection does not involve a payment or gift to any respondent.

10. Assurance of Confidentiality

Confidentiality of patent applications is governed by statute (35 U.S.C. § 122) and regulation (37 CFR 1.11 and 1.14). Upon publication of an application or issuance of a patent, the entire patent application file is made available to the public, subject to provisions for providing only a redacted copy of the file contents. The disclosure of the invention in the application is the quid pro quo for the property right conferred by the patent grant and the very means by which the patent statute achieves its constitutional objective of “promot[ing] the progress of science and useful arts.” The prosecution history contained in the application file is critical for determining the scope of the property right conferred by a patent grant.

11. Justification of Sensitive Questions

None of the required information in this collection is considered to be of a sensitive nature.

12. Estimate of Hour and Cost Burden to Respondents

Table 3 calculates the burden hours and costs of this information collection to the public, based on the following factors:

- Respondent Calculation Factors
Estimated 5000 total responses per year.
- Burden Hour Calculation Factors
Estimated 1 hour to gather the necessary information, prepare the form, and submit the completed request to the USPTO.
- Cost Burden Calculation Factors
In 2005 the Committee on Economics of Legal Practice of the American Intellectual Property Law Association published a report that summarized the results of a survey with data on hourly billing rates. The professional rate of \$310 per hour is the median rate for associate attorneys in private firms as published in that report. The USPTO expects that the information in this collection will be prepared by attorneys. This is a fully-loaded hourly rate.

Table 3: Burden Hour/Burden Cost to Respondents, Green Technology Pilot Program

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (a) x (b) (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) (e)
Request for Green Technology Pilot Program PTO/SB/420)	1.00	5,000	5,000	\$310.00	\$1,550,000.00
TOTAL	-----	5,000	5,000	-----	\$1,555,000.00

13. Total Annualized Cost Burden

There are no capital start-up costs, maintenance costs nor filing fees associated with this collection. The USPTO estimates record keeping costs of \$500 per year.

An estimated record keeping cost of \$500 is included in this collection for the submissions made via EFS-Web. The USPTO strongly urges applicants to retain a copy of the file submitted to the USPTO as evidence of authenticity in addition to keeping the acknowledgment receipt as clear evidence of the date the file was received by the USPTO.

The USPTO estimates that it will take 5 seconds (0.001 hours) to print and retain a copy of the EFS-Web submissions and that approximately 5,000 submissions per year will use this option, for a total of 5 hours per year. Using the paraprofessional rate of \$100 per hour, the USPTO estimates that the record keeping cost associated with this collection will be \$500 per year.

14. Annual Cost to the Federal Government

The USPTO estimates that it takes a GS-5, step 1, ten minutes (0.17 hours) to process the items in this collection. The hourly rate for a GS-5, step 1, is currently \$15.94 according to the wage chart of the U.S. Office of Personnel Management for locality pay for the Washington, DC area. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the rate per hour for a GS-5, step 1, is \$20.72 (\$15.94 + \$4.78).

Table 3: Burden Hour/Burden Cost to the Federal Government, Green Technology Pilot Program

Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (a) x (b) (c)	Rate (\$/hr) (d)	Total Cost (\$/hr) (c) x (d) (e)
Request for Green Technology Pilot Program PTO/SB/420)	0.17	5,000	850	\$20.72	\$17,612.00
TOTAL	-----	5,000	850	-----	\$17,612.00

15. Reason for Changes in Annual Burden

This is a new information collection, and as such the changes in burden are associated with the implementation of the pilot program.

This information collection would have a total burden increase of 5,000 hours due to a program change.

16. Project Schedule

The USPTO does not plan to publish this information for statistical use or any other purpose.

17. Display of Expiration Date of OMB Approval

The form in this information collection will display the OMB Control Number and the expiration date.

18. Exceptions to the Certificate Statement

This collection of information does not include any exceptions to the certificate statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.

REFERENCES

- A. The USPTO Information Quality Guidelines
- B. Request for Green Technology Pilot Program (PTO/SB/420)
- C. Letter Requesting Emergency Clearance