

**JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE**  
**Rules for Patent Maintenance Fees**  
**OMB Control Number 0651-0016**

Background

The United States Patent and Trademark Office (USPTO) administers the Leahy-Smith America Invents Act (AIA), Section 10, which sets or adjusts patent fees established authorized, or charged under Title 35, United States Code (U.S.C.). Section 10 prescribes that fees may be set or adjusted only to recover the aggregate estimated costs to the Office for processing, activities, services, and materials related to patent. Section 10 authorities also includes flexibility to set individual fees in a way that furthers key policies factors, while taking into account the cost of the respective services.

The request is to update the fees attached to this collection that are affected by the rulemaking NPRM 0651-AD02, and also to incorporate fees were not counted in pervious approvals. Respondent numbers are also changing due to agency discretion in conjunction with the rule.

There is one fee, broken down by entity status (large, small, and micro), being added to collection 0651-0016 (Rules for Patent Maintenance Fees) as a result of the 2017 Biennial Fee Review.

**Table 1: Total Fee and Respondents Increases**

IC #	Item	New Responses	Updated Fee	Updated Non-hour Burden (\$)
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (large entity)	672	\$2,000	\$1,344,000
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (small entity)	1,694	\$1,000	\$1,694,000
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (micro entity)	59	\$500	\$29,500
	<b>Totals</b>	<b>2,425</b>		<b>\$3,067,500</b>

**Table 2: Increases in Fee Amounts**

IC #	Item	Current Fee	Proposed Fee	Fee Increase/Decrease
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force	\$1,700 (large entity) \$850 (small entity) \$850 (micro entity)	\$2,000 (large entity) \$1,000 (small entity) \$500 (micro entity)	\$300 (large entity) \$150 (small entity) (\$350) (micro entity)

**Table 3: Increases in Hourly Burden Respondents**

IC #	Item	Current Annual Responses	Proposed Annual Responses	Increases in Responses
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (large entity)	0	672	672
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (small entity)	0	1,694	1,694

3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (micro entity)	0	59	59
	<b>Totals</b>	<b>0</b>	<b>2,425</b>	<b>2,425</b>

**Table 4: Increases in Non-Hourly Costs (Fees)**

IC #	Item	Current Total Cost (\$)	Proposed Total Cost (\$)	Total Cost Increase (\$)
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (large entity)	\$0.00	\$1,344,000.00	\$1,344,000.00
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (small entity)	\$0.00	\$1,694,000.00	\$1,694,000.00
3	Petition for the Delayed Payment of the Fee for Maintaining a Patent in Force (micro entity)	\$0.00	\$29,500.00	\$29,500.00
	<b>Totals</b>	<b>\$0.00</b>	<b>\$3,067,500.00</b>	<b>\$3,067,500.00</b>

Summary of Changes

The addition of 1 fee (broken down by entity status) and \$3,067,500 in non-hourly costs to collection 0651-0016 account for the changes following the rulemaking action NPRM 0651-AD02.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Non-hour Costs	\$1,120,361,411.42	\$3,067,500.00	\$1,123,428,711.42

The 0651-0016 revised total burden is as follows:

- \$1,123,428,711.42 in annual (non-hour) costs