

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), 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 the patent and trademark processes. Section 10 authorities also includes flexibility to set individual fees in a way that furthers key policies factors, while factoring in the cost of the respective services.

This request is to update the fees for small and micro entities attached to collection 0651-0016 (Rules for Patent Maintenance Fees) that are affected by the rulemaking RIN 0651-AD66. There are two fees in this collection being reduced as a result of the *Unleashing American Innovators Act of 2022*.

Table 1: Increases in Fee Amount

IC No.	Item	Current Fee	New Fee	Changes in Fee Amount
3	Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(b))	\$1,050 (small entity) \$525 (micro entity)	\$840 (small entity) \$420 (micro entity)	-\$210 (small entity) -\$105 (micro entity)

Table 2: Proposed Burden

IC No.	Item	Responses (a)	Proposed Fee (b)	Proposed Cost (a) x (b) = (c)
3	Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(b))	1,500 (small entity) 300 (micro entity)	\$840 (small entity) \$420 (micro entity)	\$1,260,000 (small entity) \$126,000 (micro entity)
	Totals	1,800	- - -	\$1,386,000

Table 3: Changes in Cost

IC No.	Items	Current Cost	Proposed Cost	Change in Cost
3	Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(b))	\$1,575,000 (small entity) \$157,500 (micro entity)	\$1,260,000 (small entity) \$126,000 (micro entity)	-\$315,000 (small entity) -\$31,500 (micro entity)

1.378(b))			
Totals		\$1,732,500	\$1,386,000
			-\$346,500

Summary of Changes

The Patent Fee Reviews results in the revision of two fees and a decrease of \$346,500 in annual (non-hourly) costs to collection 0651-0016.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Non-hourly Cost Burden	\$3,098,564	-\$346,500	\$2,752,064

0651-0016's revised burden is as follows:

- 44,542 in annual responses (unchanged)
- 6,864 in annual hourly burden (unchanged)
- \$2,752,064 in annual (non-hourly) costs