

JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE
Patent Petitions Related to Application and Reexamination Processing Fees
OMB Control Number 0651-0059

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 0651-0059 (Patent Petitions Related to Application and Reexamination Processing Fees) that are affected by the rulemaking RIN 0651-AD66. There are six 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
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I)	\$210 (small entity) \$105 (micro entity)	\$168 (small entity) \$84 (micro entity)	-\$42 (small entity) -\$21 (micro entity)
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II)	\$110 (small entity) \$55 (micro entity)	\$88 (small entity) \$44 (micro entity)	-\$22 (small entity) -\$11 (micro entity)
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III)	\$70 (small entity) \$35 (micro entity)	\$56 (small entity) \$28 (micro entity)	-\$14 (small entity) -\$7 (micro entity)

Table 2: Proposed Burden

IC No.	Item	Responses (a)	Proposed Fee (b)	Proposed Cost (a) x (b) = (c)
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I)	840 (small entity) 208 (micro entity)	\$168 (small entity) \$84 (micro entity)	\$141,120 (small entity) \$17,472 (micro entity)
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II)	515 (small entity) 62 (micro entity)	\$88 (small entity) \$44 (micro entity)	\$45,320 (small entity) \$2,728 (micro entity)
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III)	3,777 (small entity) 214 (micro entity)	\$56 (small entity) \$28 (micro entity)	\$211,512 (small entity) \$5,992 (micro entity)
	Totals	5,616	---	\$424,144

Table 3: Changes in Cost

IC No.	Items	Current Cost	Proposed Cost	Change in Cost
1	Petitions requiring the petition fee set forth in 37 CFR 1.17 (f) (Group I)	\$176,400 (small entity) \$21,840 (micro entity)	\$141,120 (small entity) \$17,472 (micro entity)	-\$35,280 (small entity) -\$4,368 (micro entity)
2	Petitions requiring the petition fee set forth in 37 CFR 1.17 (g) (Group II)	\$56,650 (small entity) \$3,410 (micro entity)	\$45,320 (small entity) \$2,728 (micro entity)	-\$11,330 (small entity) -\$682 (micro entity)
3	Petitions requiring the petition fee set forth in 37 CFR 1.17 (h) (Group III)	\$264,390 (small entity) \$7,490 (micro entity)	\$211,512 (small entity) \$5,992 (micro entity)	-\$52,878 (small entity) -\$1,498 (micro entity)
	Totals	\$530,180	\$424,144	-\$106,036

Summary of Changes

The aforementioned legislation results in the revision of six fees and a decrease of \$106,036 in annual (non-hourly) costs to collection 0651-0059.

Changes in Burden

Burden Type	Currently Approved	Proposed Change	New Estimate
Non-hourly Cost Burden	\$3,195,134	-\$106,036	\$3,089,098

0651-0059's revised burden is as follows:

- 40,922 in annual responses (unchanged)
- 72,959 in annual hourly burden (unchanged)
- \$3,089,098 in annual (non-hourly) costs