**JUSTIFICATION FOR NONMATERIAL/NONSUBSTANTIVE CHANGE**

**Secrecy and License to Export**

**OMB Control Number 0651-0034**

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 0651-0034 (Secrecy and License to Export) that are affected by the rulemaking RIN 0651-AD66. There are eight 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**  |
| 4 | Petition for Expedited Handling of License (no corresponding application) | $110 (small entity)$55 (micro entity) | $88 (small entity)$44 (micro entity) | -$22 (small entity)-$11 (micro entity) |
| 5 | Petition for Expedited Handling of License (corresponding U.S. application) | $110 (small entity)$55 (micro entity) | $88 (small entity)$44 (micro entity) | -$22 (small entity)-$11 (micro entity) |
| 6 | Petition for Changing Scope of License | $110 (small entity)$55 (micro entity) | $88 (small entity)$44 (micro entity) | -$22 (small entity)-$11 (micro entity) |
| 7 | Petition for Retroactive License | $110 (small entity)$55 (micro entity) | $88 (small entity)$44 (micro entity) | -$22 (small entity)-$11 (micro entity) |

**Table 2: Proposed Burden**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **IC No.** | **Item** | **Responses****(a)** | **Proposed Fee****(b)** | **Proposed Cost****(a) x (b) = (c)** |
| 4 | Petition for Expedited Handling of License (no corresponding application) | 720 (small entity)80 (micro entity) | $88 (small entity)$44 (micro entity) | $63,360 (small entity)$3,520 (micro entity) |
| 5 | Petition for Expedited Handling of License (corresponding U.S. application) | 45 (small entity)5 (micro entity) | $88 (small entity)$44 (micro entity) | $3,960 (small entity)$220 (micro entity) |
| 6 | Petition for Changing Scope of License | 1 (small entity)1 (micro entity) | $88 (small entity)$44 (micro entity) | $88 (small entity)$44 (micro entity) |
| 7 | Petition for Retroactive License | 27 (small entity)3 (micro entity) | $88 (small entity)$44 (micro entity) | $2,376 (small entity)$132 (micro entity) |
|  | **Totals** | **882** | **- - -** | **$73,700** |

**Table 3: Changes in Cost**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **IC No.** | **Items**  | **Current Cost** | **Proposed Cost** | **Change in Cost** |
| 4 | Petition for Expedited Handling of License (no corresponding application) | $72,000 (small entity)$4,000 (micro entity) | $63,360 (small entity)$3,520 (micro entity) | -$8,640 (small entity)-$480 (micro entity) |
| 5 | Petition for Expedited Handling of License (corresponding U.S. application) | $4,500 (small entity)$250 (micro entity) | $3,960 (small entity)$220 (micro entity) | -$540 (small entity)-$30 (micro entity) |
| 6 | Petition for Changing Scope of License | $100 (small entity)$50 (micro entity) | $88 (small entity)$44 (micro entity) | -$12 (small entity)-$6 (micro entity) |
| 7 | Petition for Retroactive License | $2,700 (small entity)$150 (micro entity) | $2,376 (small entity)$132 (micro entity) | -$324 (small entity)-$18 (micro entity) |
|  | **Totals** | **$83,750** | **$73,700** | **-$10,050** |

Summary of Changes

The Patent Fee Reviews results in the revision of eight fees and a decrease of $10,050 in annual (non-hourly) costs to collection 0651-0034.

Changes in Burden

|  |  |  |  |
| --- | --- | --- | --- |
| **Burden Type** | **Currently Approved** | **Proposed Change** | **New Estimate** |
| Non-hourly Cost Burden | $788,287 | -$10,050 | $778,237 |

0651-0034’s revised burden is as follows:

* 4,434 in annual responses (unchanged)
* 2,798 in annual hourly burden (unchanged)
* $778,237 in annual (non-hourly) costs