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USPTO Issues Final Rules: Prioritized Examination

Prioritized examination (PE) has been implemented under the AIA to give applicants more control over when their applications are examined. The goal is to provide a final disposition within twelve months, on average, of prioritized status being granted. As of September 26, 2011, so-called Track I requests for prioritized status may be filed for original utility or plant applications. The program was extended on December 19, 2011 to permit a single request for prioritized status upon filing an RCE or after an RCE is filed but prior to a 1st Examiner's Action.

The requirements for prioritized status are that Track I requests must be filed with an application; the application must include, or be amended to include, no more than four independent claims and 30 total claims; the application and PE request must be electronically filed; the PE request must be complete on date of filing, so that any missing component must be filed on the same day; and that a PTO/SB/424 Certification and Request form or equivalent must be used to file the PE request.

PE request fees include a PE Examination fee of \$4800 (large entity) or \$2400 (small entity), \$130 processing fee, and \$300 publication fee. These fees are in addition to the regular filing fees for Track I requests and in addition to the RCE fee for PE-RCE requests.