the provisional application is recommended, in order to ensure that support for the invention claimed in the 35 U.S.C. 111(a) application can be readily ascertained in the provisional application.

Section 1.53(c) is being amended to require that any request for review of a refusal to accord an application a filing date be made by way of a petition accompanied by the fee set forth in §1.17(i), if the application was filed under $\S 1.53(b)(1)$, or by the fee set forth in §1.17(q), if the application was filed under § 1.53(b)(2). This reflects the current practice set forth in the Manual of Patent Examining Procedure (MPEP), section 506.02 (Sixth Edition, Jan. 1995) with regard to any request for review of a refusal to accord a filing date for an application. The PTO will continue its current practice of refunding the petition fee, if the refusal to accord the requested filing date is found to have been a PTO error.

Section 1.53(d) is being redesignated as \$ 1.53(d)(1).

Section 1.53(d)(2) is being added to provide that a provisional application may be filed without the basic filing fee and without the complete cover sheet required by § 1.51(a)(2). In such a case, the applicant will be notified and given a period of time in which to file the missing fee, and/or cover sheet and to pay the surcharge set forth in § 1.16(l).

Section $1.53(\bar{e})$ is being redesignated as § $1.53(\bar{e})(1)$ and amended to refer to § $1.53(\bar{b})(1)$. Also, a new § $1.53(\bar{e})(2)$ is being added to indicate that a provisional application will not be given a substantive examination and will be abandoned no later than twelve (12) months after its filing date.

Sections 1.55(a) and (b) are being amended to clarify that the sections apply to nonprovisional applications and to clarify that a nonprovisional application may claim the benefit of one or more prior foreign applications or one or more applications for inventor's certificate. Also, §1.55(a) is being amended to replace the reference to 35 U.S.C. 119 with a reference to 35 U.S.C. 119(a)-(d). In addition, the reference to §1.17(i)(1) in §1.55(a) is being replaced by a reference to §1.17(i) to be consistent with the change to §1.17. Section 1.55(b) is also being amended to refer to 35 U.S.C. 119(d) to conform to the paragraph designations contained in Public Law 103-465.

Section 1.59 is being amended to clarify that the retention fee practice set forth in § 1.53(d)(1) applies only to applications filed under § 1.53(b)(1).

Section 1.60 is being amended to clarify in the title of the section and in paragraph (b)(1) that the procedure set

forth in the section is only available for filing a continuation or divisional application if the prior application was a nonprovisional application and complete as set forth in § 1.51(a)(1). Paragraph (b)(4) is being amended to delete the requirement that the statement which must accompany the copy of the prior application include the language that "no amendments referred to in the oath or declaration filed to complete the prior application introduced new matter therein." The requirement is unnecessary because any amendment filed to complete the prior application would be considered a part of the original disclosure of the prior application and, by definition, could not contain new matter. Also, paragraph (b)(4) is being amended to refer to §1.17(i).

Section 1.62(a) is being amended to clarify that the procedure set forth in the section is only available for filing a continuation, continuation-in-part, or divisional application of a prior nonprovisional application which is complete as defined in $\S 1.51(a)(1)$. Section 1.62(a) is also being amended to clarify that a continuing application may be filed under § 1.62 after payment of the issue fee if a petition under §1.313(b)(5) is granted in the prior application and that the request for a §1.62 application must include identification of the inventors named in the prior application. The phrase "Serial number, filing date'' in § 1.62(a) is being changed to "application number."

Section 1.62(e) is being amended to replace the reference to § 1.17(i)(1) with a reference to § 1.17(i) to be consistent with the change to § 1.17. Also, the term "application serial number" in § 1.62(e)is being changed to "application number."

Section 1.63(a) is being amended to replace the reference to § 1.51(a)(2) with a reference to § 1.51(a)(1)(ii) in order to conform with the changes in § 1.51 and to refer to an oath or declaration filed as a part of a nonprovisional application.

Section 1.67(b) is being amended to replace the reference to § 1.53(d) with a reference to § 1.53(d)(1) in order to conform with the changes in § 1.53. Furthermore, the references to §§ 1.53(b)and 1.118 are being deleted to make clear that the new matter exclusion applies to all applications including those filed under §§ 1.60 and 1.62. Also, the section is being amended to refer to a nonprovisional application.

Sections 1.78 (a)(1) and (a)(2) are being amended to clarify that the sections apply to nonprovisional applications claiming the benefit of one or more copending nonprovisional applications or international applications designating the United States of America. Section 1.78(a)(1)(iii)is being amended to refer to \$\$ 1.53(b)(1) and 1.53(d)(1). Section 1.78(a)(2) is also being amended to eliminate the use of serial number and filing date as an identifier for a prior application. The section will require that the prior application be identified by application number (consisting of the series code and serial number) or international application number and international filing date.

Sections 1.78 (a)(3) and (a)(4) are being added to set forth the conditions under which a nonprovisional application may claim the benefit of one or more prior copending provisional applications. The later filed nonprovisional application must be an application other than for a design patent and must be copending with each provisional application. There must be a common inventor named in the prior provisional application and the later filed nonprovisional application. Each prior provisional application must be complete as set forth in $\S1.51(a)(2)$, or entitled to a filing date as set forth in §1.53(b)(2) and include the basic filing fee. Section 1.78(a)(3) also includes the warning that when the last day of pendency of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, any nonprovisional application claiming benefit of the provisional application must be filed prior to the Saturday, Sunday, or Federal holiday within the District of Columbia. A provisional application may be abandoned by operation of 35 U.S.C. 111(b)(5) on a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case, a nonprovisional application claiming benefit of the provisional application under 35 U.S.C. 119(e) must be filed no later than the preceding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

Section 1.78(a)(4) is also being added to provide that a nonprovisional application claiming benefit of one or more provisional applications must contain a reference to each provisional application, identifying it as a provisional application and including the provisional application number (consisting of series code and serial number). The section does not require the nonprovisional application to identify the nonprovisional application as a continuation, divisional or continuation-in-part application of the provisional application.