

**CHANGES TO THE PATENT EXAMINER PERFORMANCE APPRAISAL PLAN,
EXTENSION OF THE PENDENCY AWARD,
RENEWAL OF THE COUNT SYSTEM INITIATIVES,
AND OTHER ISSUES**

June 18, 2015

Preamble: This agreement between the United States Patent and Trademark Office (“USPTO” or “Agency”) and the Patent Office Professional Association (“POPA” or “Union”) and the policies announced by Deputy Commissioner Andrew Faile in his memorandum entitled “*Extension of the Pendency Award and Count System Initiatives, Changes to the Patent Examiner Performance Appraisal Plan, and Other Issues*,” dated June 18, 2015, are the results of the continued efforts of the Patent Examiner Performance Appraisal Plan (PAP) and POPA/Management Count System Initiative task forces. The USPTO and POPA jointly seek to protect the American public by reducing patent term adjustments and by continuing to provide meaningful incentives for examiners to complete work in less time than is allowed under the PAP. This agreement resolves all notification and bargaining obligations for the issues discussed herein, including the current changes to the patent examiner PAP effective for FY16, extension of the Pendency Award, extension of the Count System Initiatives, and all other changes described in the memoranda attached to this agreement.

The agreements contained herein, and policies referenced in this document, supersede portions of any agreements, memoranda of understanding, policies, or practices with which they conflict. If any portion of an agreement, memorandum, policy, or practice does not conflict with the provisions and policies set forth herein, that portion of the previous agreement, memorandum, policy, or practice shall remain in force.

I. Patent Examiner Performance Appraisal Plan

A. Attached to this MOU, as Attachment A, is the GS-12 version of the Performance Appraisal Plan to be applied for Patent Examiners beginning in FY 2016.

B. Updated and grade-specific versions of the attached PAP will be implemented for all examiners at the beginning of FY 2016 except as noted below:

1. Examiners on a Docket Management (DM) performance warning at end of FY 2015

Examiners on a performance warning (oral warning or written warning) in the FY 2015 Docket Management element as of the end of FY 2015 will remain on the docket management element of their 2015 PAP until no longer on a Docket Management performance warning (i.e., until successful completion of that performance warning, or successful completion of a written warning after failing an oral warning).

2. Examiners who are not on a warning but fail their Docket Management element in the fourth quarter of FY 2015

- a. Examiners who achieve less than 80% in the Docket Management element in the fourth quarter of FY 2015 or who achieve less than 88% in the DM element in the fourth quarter of FY 2015 after having received a Safety Zone letter in the third quarter of FY 2015 may be issued an oral warning which will be evaluated using the FY 2015 Docket Management element. These examiners will remain subject to the FY 2015 Docket Management element until they are no longer on a Docket Management warning, whether oral or written, as described in I.B.1. above.
- b. Examiners who achieve a Docket Management score in the fourth quarter of FY 2015 of 80% or greater, but less than 88% will be subject to the FY 2016 standards, beginning in the first quarter of FY 2016 and may be issued a safety zone in Docket Management for the first quarter of FY 2016.

3. Examiners on a Docket Management maintenance period in FY 2016

Examiners who pass or have passed a Docket Management written warning under the FY 2015 Docket Management element and have a resulting maintenance period that begins in or extends into FY 2016 will be issued an FY 2016 PAP, including the revised Docket Management element, at the beginning of FY 2016 or upon successful completion of their written warning, whichever is later. The Agency will evaluate their performance under the FY 2016 Docket Management element, but will not propose removal for performance in Docket Management during the maintenance period unless the examiner's performance is unacceptable under both the FY 2015 and 2016 Docket Management elements for the period.

4. Last chance agreements signed prior to June 12, 2014

As agreed in the June 12, 2014 MOU between POPA and the USPTO regarding Changes to the Patent Examiner Performance Appraisal Plan, Extension of the Pendency Award, and Other Issues, examiners on last chance agreements signed prior to June 12, 2014, will be evaluated for compliance with Docket Management portions of those agreements based on the terms of that MOU.

For FY 2016, those examiners will be evaluated for compliance with Docket Management based on the FY 2016 Docket Management element, but if the examiner has not maintained the level of performance required in the last chance agreement under the Docket Management element, the examiner will also be evaluated under the element contained in his/her FY 2014 performance appraisal plan. The examiner will be deemed to have achieved the required level of performance in the Docket Management element if either is sufficient.

5. Last chance agreements signed between June 12, 2014 and the effective date of this agreement

Examiners on last chance agreements signed between June 12, 2014 and the effective date of this agreement will be evaluated for compliance with the Docket Management portions of those agreements during FY 2016 based on the FY 2016 Docket Management element, but if the examiner has not maintained the level of performance required in the last chance agreement under the Docket Management element, the examiner will also be evaluated under the element contained in his/her FY 2015 performance appraisal plan. The examiner will be deemed to have achieved the required level of performance in the Docket Management element if performance under either element is sufficient.

II. Pendency Award

- A. The Pendency Award program that was established in an October 22, 2010 agreement between the parties, as most recently modified on June 12, 2014, will remain in effect through the end of the second quarter of FY 2016. The requirements and provisions related to the Pendency Award as modified June 12, 2014, are repeated below with updates to reflect the extension of the award.
- B. To be eligible for the Pendency Award in any given quarter, an examiner must (a) have a most recent rating of record of Fully Successful or better; (b) have completed one full year of employment with the USPTO before the first day of the quarter under consideration; (c) have a returns category score in the Docket Management element of at least 100%; and (d) meet the award criteria as outlined below.
- C. The Pendency Award Program has three tiers of performance award criteria. Quarterly award payments will be made based on performance achieved during that quarter.

Entry-level Tier : 0.25% of current annual salary, excluding overtime and awards, paid following a quarter in which an examiner meets each of the following criteria:

- At least 110% overall Docket Management score (excluding the Returns category); and
- No ceiling exceeded applications in any category during the period.

Tier 1: 0.5% of current annual salary, excluding overtime and awards, paid following a quarter in which an examiner meets each of the following criteria:

- At least 120% overall Docket Management score (excluding the Returns category); and
- No single category score under 100%; and
- Completion of a number of oldest new or other applications for which asterisk credit is received as set out in Section E. below, which depends on the number of biweeks in the quarter, part-time status and expectancy (hrs/BD); and
- No more than one application exceeds the ceiling in the quarter.

Tier 2: 0.75% of current annual salary, excluding overtime and awards, paid following a quarter in which an examiner meets each of the following criteria:

- At least 140% overall Docket Management score (excluding the Returns category);
- No single category score under 120% (excluding the Returns category); and
- Returns category must be at least 100%; and
- Completion of a number of oldest new or other applications for which asterisk credit is received as set out in Section E. below, which depends on the number of biweeks in the quarter, part-time status and expectancy (hrs/BD); and
- No more than one application exceeds the ceiling in the quarter.

D. Miscellaneous Criteria and Exceptions Applicable to all Tiers

- As noted in the Tier 1 and Tier 2 descriptions above, completion of a minimum number of oldest new asterisk or other applications for which asterisk credit is received in the quarter is required. The following types of applications count towards the criteria:
 - Regular and Continuing New applications which are either marked as oldest or for which asterisk credit is received.
 - RCE applications which are either marked as oldest or for which asterisk credit is received,
 - All Special New.
- The number of oldest new or asterisk credited applications which must be completed in a quarter to meet the Tier 1 or Tier 2 award criteria depends upon the length of the quarter, the examiner's work schedule (full-time vs. part-time), and expectancy (if over 28 hours/BD, based upon the examiner's average hours/BD for the previous quarter), as follows:

5 Bi-week Quarter Scenario:

5 Biweek Quarter	Tier 1	Tier 2
Full Time Examiner	5 applications	7 applications
Part time or over 28 hours/BD	4 applications	5 applications

6 Bi-week Quarter Scenario:

6 Biweek Quarter	Tier 1	Tier 2
Full Time Examiner	6 applications	9 applications
Part time or over 28 hours/BD	4 applications	6 applications

7 Bi-week Quarter Scenario:

7 Biweek Quarter	Tier 1	Tier 2
Full Time Examiner	7 applications	10 applications
Part time or over 28 hours/BD	5 applications	7 applications

- If an examiner has a small number of cases in categories 1 through 4 (a small number means less than or equal to 5% of the total number of cases included in the total composite score for award purposes) and the score in that category would prevent the examiner from qualifying for an award or higher award level, the category score will not be considered for award purposes.
 - Pendency Award payments for part-time examiners will be prorated based on the examiner's part-time work schedule. For example, if an examiner is scheduled to work 40 hours per biweek, the examiner earning an award will receive a payment of 50% of the award payment of a full time examiner at the same grade and step.
 - Examiners who change their work schedule from full-time to part-time any time during a quarter, must meet the oldest new /asterisk application award criteria by completing the part-time requirement. The award payment will be based on a full-time schedule. For subsequent quarters, the examiner award requirement and award payment are both based on the examiner's part-time schedule.
 - Examiners who change from a part-time to a full-time work schedule any time during a quarter, must meet the oldest new/asterisk application award criteria by completing the full-time requirement. The award payment will be based on a full-time work schedule.
- E. In addition to the quarterly Pendency Award payments, supplemental payments will be available to examiners who achieve sustained performance at the Tier 1 or Tier 2 level. The supplemental payments will be available at the end of the second quarter of FY 2016, based on performance in the third and fourth quarters of FY 2015 and the first and second quarters of FY 2016.

Supplemental payments for part-time examiners will be based on the work schedule used to determine the Pendency Award payment in the majority of the quarters. For example, an examiner working part time in the third quarter of FY 2015, but converting to full-time for the fourth quarter of FY 2015 and continuing to work full-time through the second quarter of FY 2016 will be eligible for a supplemental award based on his or her full-time salary if the employee meets the other criteria for the supplemental payment.

The supplemental payments will be as follows:

Tier 1: 0.5% of current annual salary, excluding overtime and awards, to any examiner who has performed at the Tier 1 level or better in each of the preceding quarters of FY 2015 Q3-Q4 and FY 2016 Q1-Q2.

Tier 2: 1.0% of current annual salary, excluding overtime and awards, to any examiner who has performed at the Tier 2 level in each of the preceding quarters of FY 2015 Q3-Q4 and FY 2016 Q1-Q2.

There is no supplemental payment for sustained performance at the entry-level Tier.

F. There is no minimum quarterly hour requirement for payment of the Pendency Award except as provided below. Approved absences from the office will affect award determinations as follows.

1. Examiners who are on approved absence for twenty one (21) consecutive days or more for reasons that would qualify under FMLA or sick leave (excludes vacations) may elect to receive a prorated Pendency Award. In this instance, the new application requirement is prorated to the nearest whole application based on the proportion of the days missed from the quarter. The prorated award will be calculated by considering the examiner's performance in the Docket Management element only during the duty hours in which the examiner worked. If the examiner meets the criteria for any tier based upon performance in the duty hours worked and has at least 150 duty hours worked during the quarter (but fewer than 300 duty hours worked), he/she will receive an award payment X calculated as follows:

$$X = (\text{payout for highest Tier attained}) \times \frac{\text{duty hours worked}}{300 \text{ hours}}$$

where the duty hours worked is between 150 and 299 hours.

The four week period may span quarters. An examiner who maintains the required award levels during the quarter may opt to maintain eligibility for the full Pendency Award.

2. Examiners who receive a pro-rated award for any quarter as set forth in 1) above may be eligible for a prorated supplemental payment. All Pendency Award criteria must be achieved for the time worked in each quarter. The supplemental payment will be prorated based on the total duty hours worked for all eligible quarters, using the following formula:

$$\frac{\text{total duty hours worked for all eligible quarters} *}{(\text{total number of eligible quarters}) \times 300 \text{ hours}}$$

*For purposes of this calculation, each quarter is capped at 300 duty hours.

3. For all other planned absences, defined as any absence for which an examiner has at least one working day advance knowledge, the examiner should plan ahead and

position his/her docket in anticipation of the absence. An examiner who is on approved absence will receive the Docket Management adjustments as detailed in their current PAP and the current PAP Guidelines.

- G. If an examiner leaves his or her position after having two qualifying full quarters (Tier 1 or Tier 2), a supplemental award will be paid, but will be prorated to 50% of the full amount. If the examiner has three qualifying full quarters the supplemental award will be 75%.

H. Extension and Termination Procedures

1. Extension Procedures of the Pendency Award

The extension of the Pendency Award described above expires at the end of the second quarter of FY 2016. No later than the second quarter of FY 2016, the Agency and POPA will meet to discuss the Docket Management element, Pendency Award, Count System Initiatives, and related topics, including whether the Pendency Award will continue, and, if so, the availability and level of the supplemental payment.

2. Termination Procedures of the Pendency Award

- a. Upon providing notice of termination to the members of the bargaining unit, the Pendency Award program shall terminate at the end of the fiscal quarter in which notice is given. Eligibility standards and award amounts shall be prorated relative to a yearly basis depending on the quarter in which termination is effective.
- b. If the USPTO terminates the Pendency Award, it will provide notice to POPA. POPA will be given an opportunity to bargain over the impact resulting from termination of the Pendency Award. This will not affect USPTO's right to terminate the Pendency Award as set out in paragraph II.H.2.a. above.
- c. If a decision is made to terminate the Pendency Award, USPTO will provide POPA with Pendency Award cost information and productivity and pendency data for at least the last two full fiscal years.

III. Extension of Count System Initiatives

Except as noted below, Section III of this Agreement supersedes all Agreements, Memoranda of Understanding (MOUs) and Agency policy memoranda regarding the Count System Initiatives (CSI) signed by the parties in 2009, 2010, 2011, 2012, 2013, and 2014.

This Agreement constitutes the continuation of the FY 2010 Count System Initiatives.

- A. The USPTO and POPA agree to extend and modify the initiatives known as the Count System Initiatives which were originally captured in the *"MOU between the United States Patent and Trademark Office and the Patent Office Professional Association Regarding the 2010 Count System Initiatives and other Initiatives"* on November 3, 2009.
- B. The CSI (as begun in FY 2010) shall continue in operation through FY 2016 as modified in the language below and in the revised memoranda referenced in the language below.
- C. This Agreement covers the continuation and implementation of the following memoranda, which remain in effect and unchanged:
- "FY 2011 Examiner-Initiated Interviews," issued August 31, 2010,
 - "Certification and Recertification Programs," issued November 3, 2009,
 - "FY 2013 Category 3 Quality Performance Element," issued November 27, 2012,
 - "FY 2013 Timing of Patent Examiners' Work Credit," issued November 27, 2012,
 - "FY 2014 Examiner Production Credits and Revisions to Examiner Expectancies," issued September 30, 2013,
- D. This agreement and the memoranda referenced above constitute a package known as the Count System Initiatives (referred to in this agreement as CSI or Package). The union acknowledges that the Agency has met its obligation to negotiate over the impact and implementation of the changes discussed in this Package.
- E. All provisions of Section III of this Agreement and the memoranda referenced within Section III are effective on October 1, 2015, unless otherwise indicated.
- F. The Agreement on Trial Gainsharing between the Patent and Trademark Office and the Patent Office Professional Association signed on October 6, 1988, and first modified on November 3, 2009, remains modified from the original as follows:

Section 1. A. 1 is replaced with the following:

1. For Patent Examiners:

Production Goal Achievement*	% of Current Base Salary
110-114%	2%
115-119%	3%
120-124%	4%
125-129%	5%
130-134%	6%
135% or higher	7%

*Requires at least fully successful performance in all critical elements.

1. This modification applies to Productivity Gainsharing Awards for work done in FY 2016 only. Unless the parties agree otherwise, section I.A. I will revert back to the 1988 language for work done on or after October 1, 2016.
2. No single Award may exceed the threshold which requires OPM approval (\$10,000.00 as of the date of signing this Agreement).

G. Evaluation Criteria

Information to be considered in evaluation of the package and other initiatives may include:

- Actions per disposal
- Allowance Rates
- Examiner-initiated Interviews subsequent);
- First Action Allowance Rate
- Joint Surveys (examiners, tech support, managers)
- Award Program-Cost, distribution of employees, comparison between years (in vs. out; levels)
- Certification pass rates
- Performance Actions
- Attrition Rates
- Productivity
- Docket Management
- Quality
- Revenue
- New (non RCE) backlog, pendency to first action
- RCE Filings (first, second, and FAOM (first, second and subsequent), pendency to first action, and mix (general patterns and examiner level patterns)
- Transferred applications/ inherited amendments
- IT Impacts-load data, end of biweek, end of quarter, distribution of counts/transactions
- How often the safety net was used, for what purpose, and why (if a reason can be determined)

H. Providing Information and Data to the Union

So that both parties can participate in evaluation of the initiatives, the Agency will provide the Union with any evaluation data as gathered for the criteria set out above, as well as any other information the Agency considers when evaluating the impact of the initiatives. The information and data shall be provided promptly so that both parties may analyze the data contemporaneously.

I. Safety Net

1. The Agency shall maintain PALM functionality so that an examiner's performance may be calculated under the count system in effect at the end of FY 2009.

2. When the need to make performance determinations arises, (e.g. annual performance ratings, performance actions, promotions, WIGIs, award eligibility, and determinations regarding the retention or non-retention of probationary or trial period examiners), a "safety net" shall be applied, under which the examiner's production shall be calculated using both the count system in effect at the end of FY 2009 and the prevailing count system(s), except as described in 4, below. The best result for the employee will be used to determine the production goal achievement element in the PAP and/or to inform probationary or trial period retention decisions.
 3. The safety net will be maintained for the duration of this Agreement and will also apply to performance determinations, such as those listed in 2 above, after the agreement is terminated or expires, provided that the performance determination is related at least in part to the examiner's performance during the duration of this Agreement.
 4. For the duration of the safety net, to evaluate production for all purposes (including evaluation of compliance with last chance agreements) other than performance actions, the Agency will evaluate an examiner's performance for the period at issue under (a) the count system in effect at the end of FY 2009, and (b) the prevailing count system(s), and use the better of the two results for determining the employee's production. For the duration of the safety net, to evaluate production for performance actions, the Agency will evaluate an examiner's performance for the entire period at issue under (a) the count system in effect at the end of FY 2009, and (b) the count system set forth in this Agreement, and use the better of the two results for determining the employee's production.
 5. Situations not specifically addressed above that are relevant to the impacts of the new count system will be jointly addressed with the goal being to reach a reasonable decision in an expedient manner.
- J. At the request of either party, the parties will meet to discuss modification to the Package or related issues.
- K. Duration of the Agreement
1. The Agreement shall remain in effect until the end of FY 2016. If the Agreement is not extended or modified by mutual agreement, all working conditions set forth as part of the Package shall return to their status as of September 30, 2009.
 2. The parties shall commence meeting no later than the second quarter of FY 2016 to determine if the Agreement will lapse or be continued for an agreed period of time. By September 1, 2016, employees will be notified of the status of the Agreement.

L. Termination for the Proper Functioning of the Agency during the Term of the Agreement

1. If the Agency determines that it must terminate any aspect of the Package for the proper functioning of the Agency, the entirety of the Package shall be terminated unless the parties reach agreement on an alternative prior to the date of termination.
2. If the Agency determines that it must terminate the Package prior to the expiration of the Agreement, the Agency will provide the union with at least a two week notice including a brief statement of the reasons for termination. During that time, the parties shall meet to determine if the Package can be modified to avoid termination.
3. In the case of termination, all working conditions changed as a result of the Package shall return to their status as of September 30, 2009. Upon notification of termination, the Union will have ten days to request post-implementation negotiations over the termination.

M. Termination upon Modification or Revocation of Memorandum on Change of Examiner Expectancies

1. On November 27, 2012, Deputy Commissioner for Patent Operations Andrew Faile issued a memorandum titled "Change to Patent Examiners' Expectancies." The Union agrees that any bargaining obligations stemming from that memorandum have been satisfied.
2. The "Change to Patent Examiners' Expectancies" memorandum is separate from the Package, except that if that memorandum is modified or terminated before September 30, 2016, then - at the Union's election- all components of the Package will terminate and all working conditions set forth as part of the Package shall automatically return to their status as of September 30, 2009.
3. Termination of the Package, whether due to expiration or for the proper functioning of the Agency, does not require the Agency to modify or terminate the "Change to Patent Examiners' Expectancies" memorandum. This memorandum will remain in effect unless modified, terminated, or otherwise replaced by a new policy following notice to the Union and the opportunity to bargain.


IV. Status of Memoranda

- A. The following memorandum attached to this Agreement will be distributed to the examining corps:

"Extension of the Pendency Award and Count System Initiatives, Changes to the Patent Examiner Performance Appraisal Plan, and Other Issues," from Deputy Commissioner for Patents Andy Faile, dated June 18, 2015.

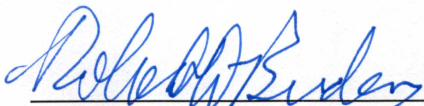
- B. While the language of the preamble controls, Attachment C provides a list of active policy memoranda and agreements issued in conjunction with either the Count System Initiatives or Patent Examiner PAP Task Forces since 2009.

Signatures:



Andrew Faile
Deputy Commissioner
for Patent Operations
U.S. Patent and Trademark Office

6/18/15
Date



Robert D. Budens
President
Patent Office Professional Association

18 June 2015
Date

Attachment A- [2016 Performance Appraisal Plan](#)

Attachment B- "[Extension of the Pendency Award and Count System Initiatives, Changes to the Patent Examiner Performance Appraisal Plan, and Other Issues](#)," from Deputy Commissioner for Patents Andy Faile, dated June 18, 2015

Attachment C-

- "[Certification and Recertification Programs](#)", issued November 3, 2009
- "[FY 2011 Examiner-Initiated Interviews](#)", issued August 31, 2010
- "[Transition for Examiners with Performance-based Abeyance Agreement](#)", issued October 22, 2010
- "[Procedures for Considering Transfers of Examiners](#)", issued October 22, 2010
- "[Examiner Requested Transfer Between Art Units and/or Technology Centers](#)" form, issued Fiscal Year 2014
- "[Effect of New Examiner Performance Appraisal Plans on Signatory Authority Program](#)", issued October 22, 2010
- "[Letters of Reprimand and Witness Statements for POPA Bargaining Unit Employees](#)", issued October 22, 2010
- "[Application of Oral and Written Warnings and Statutory Performance Improvement and Maintenance Periods](#)", issued October 27, 2010
- "[Safety Zones and Repeated Performance Warnings under the new Examiner Performance Appraisal Plan](#)", issued October 27, 2010
- "[FY 2013 Category 3 Quality Performance Element](#)", issued November 27, 2012
- "[FY 2013 Timing of Patent Examiners' Work Credit](#)", issued November 27, 2012
- "[Changes to Patent Examiners' Expectancies](#)", issued November 27, 2012
- "[FY 2014 Examiner Production Credits and Revisions to Examiner Expectancies](#)," issued September 30, 2013
- "[Information regarding Personal Hardship Situations including Medical Conditions](#)", issued June 12, 2014
- "[Memorandum of Understanding Between the United States Patent and Trademark Office and the Patent Office Professional Association Regarding the 2011 Examiner](#)

[Performance Appraisal Plan and Other Matters](#)", issued October 22, 2010 (except as superseded)

- ["FY 2013 3 and 6 Month Inventory Chart"](#), issued November 19, 2012




United States Patent and Trademark Office

Office of the Commissioner for Patents

MEMORANDUM

Date: June 18, 2015

To: All Patents Employees

From: 
Andrew Faile
Deputy Commissioner for Patent Operations

Subject: Renewal of the Pendency Award, Extension of the Count System Initiatives, Changes to the Patent Examiner Performance Appraisal Plan, and Other Issues

Representatives from the Patent Office Professional Association (POPA) and Patents Management have met annually for the last several years to discuss the Pendency award, Patent Examiner Performance Appraisal Plan (PAP), and other issues of mutual interest to examiners and the Agency. Additionally, POPA and management representatives have met annually to discuss renewal of the Count System Initiatives (CSI) and other related topics. Because of the substantial overlap of issues we decided to combine these two task forces. I am pleased that the parties have reached agreement on a number of items that will improve our processes.

While the agency's investment in the Pendency Award has produced gains by incentivizing examiners to complete actions at outstanding levels as set forth in the PAP, further opportunities for improvement exist. The modifications to the DM element of the PAP set forth below are designed to address the minority of situations where actions in certain categories are delayed significantly longer than the expected average time. The majority of examiners will not be negatively impacted by these changes. We will be monitoring and assessing the impact of these changes on reducing amendment processing time. Depending on the effectiveness of these changes, other options may be discussed in the future, including limiting the availability and use of "asterisks" in the DM system.

The agency and POPA remain committed to the principles set forth in previous memoranda such as the memo dated November 27, 2012, entitled Fiscal Year [\(FY\) 2013 Timing of Patent Examiners' Work Credit](#), the PAP, and the PAP guidelines. Reviewers are reminded that returns should be timely and complete, avoiding "piecemeal" review by identifying all issues and providing sufficient guidance as to what corrections are required in order to approve the action. Examiners are reminded that submission of work must be complete and correct consistent with each examiner's PAP grade level requirements, and that actions should be corrected and returned promptly. Evaluation of examiners under the quality element of the PAP includes many opportunities for coaching and mentoring to occur to assist each examiner

in improving performance when needed. Supervisors and Examiners are expected to work together to clarify and resolve issues when they arise. QASs are also available to provide assistance and training, and to assist with resolution of issues which may be preventing completion of a case. When a reviewer provides feedback orally, the examiner may prepare a written summary of the feedback; if requested by the examiner, the reviewer will review the written summary and provide further clarification, if necessary, of what corrections the reviewer requires in order to approve the action.

This memorandum summarizes the agreements reached by the Joint CSI/DM Task Force on the following topics:

- I. Renewal of Pendency Award
- II. Extension and Renewal of the Count System Initiatives, including the modifications to the Gainsharing Award
- III. Changes to Docketing and Inventory Policies
 - RCE Inventory Levels
- IV. Changes to the Patent Examiner PAP and PAP Guidelines
 - Return Scores (DM Category 5)
 - Amendment Scores (DM Category 1)
 - Pauses for Vacations, Military Service, and FMLA-type Absences
- V. Other Provisions Related to DM and the Examiner PAP

I. Renewal of Pendency Award

[001] Renewed Award period: FY 2015 Quarter 3 through FY 2016 Quarter 2

[002] The existing Pendency Award will be renewed for an additional 4 quarter period, from the beginning of the third quarter of FY 2015 through the end of the second quarter of FY 2016. The award criteria and terms are found in the [Agreement](#), and are unchanged from the existing award.

II. Extension and Renewal of the Count System Initiatives

[003] Effective Date: October 1, 2015

[004] The Count System Initiatives, including the modification to the Gainsharing Award, are extended until September 30, 2016. Because no changes have been made to the CSI, the policies described in the memorandum of September 30, 2013, entitled [FY 2014 Examiner Production Credits and Examiner Expectancies](#) remain in effect.

III. Changes to Docketing and Inventory Policies

- [005] Effective Date: June 28, 2015 (start of FY 2015 Quarter 4)
- [006] This memorandum supersedes the September 30, 2013, memorandum entitled *FY 2014 Changes in Docket Management Policies*. In view of the Agency's continuing efforts to reduce Patent Term Adjustment (PTA) by reducing the backlog and age of unexamined Requests for Continued Examination (RCEs), the thresholds for RCE Inventory Levels A, B, and C have been reduced.
- [007] The timely examination of applications remains a critical part of the mission of the Office and is of increasing importance to our customers. Applicants file an application with the expectation that an examination will be done generally in the order that it was received by the USPTO, or in other words on a "first-in, first-out" basis.
- [008] MPEP 708 sets forth "*Nonprovisional applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed except for those applications in which examination has been advanced pursuant to 37 CFR 1.102.*" Accordingly, examiners should generally not be examining cases far enough out of order as to essentially accord a "special" status to an application that has not otherwise been formally granted such a status.
- [009] Recognizing the need to provide examiners with enough applications on their dockets to allow them to work in an efficient manner, supervisors will monitor each examiner's docket on a biweekly basis and maintain on each docket at least the number of applications typically acted upon by the examiner in a 6 month period, provided that there are enough applications available in the examiner's normally assigned technology(ies). This 6 month inventory will generally comprise a combination of Regular New applications¹, RCEs, Continuations (CONs), and Divisionals (DIVs).
- [010] If a sufficient number of Regular New, RCE, CON, and DIV applications in an examiner's normally assigned technology(ies) is not available to fill the 6 month inventory, the inventory may be less than 6 months, but in no case shall the inventory be maintained at less than 3 months.
- [011] In certain situations detailed below, the types of applications in an examiner's inventory of available work will be limited.
- [012] The number of applications in the examiner's inventory will be based on the examiner's expectancy at his or her current grade, 75% examining time (60 hours per pay period for a full time examiner), and assumes that 38% of the examiner's production is from credit for FAOMs in Regular New, RCE, CON, and DIV applications (see attached chart, Inventory of Regular New, RCE, CON, and DIV applications).

¹ A Continuation-in-Part (CIP) is considered a Regular New application.

[013] It is recognized that efficient management of an examiner's workload may lead to applications being taken up for examination out of date order. For example, an examiner may have related applications with overlapping fields of search such that examination as a group is more efficient, or may have a number of applications which are subject to restriction requirement.

[014] If an examiner has a new application which is not included in the examiner's 6 month inventory and believes it should be examined out of turn, the examiner is expected to gain supervisory approval before starting to examine that application. Examples of appropriate reasons for examining applications out of order include having related applications or applications with closely related subject matter. Within the 6 month inventory, examiners may use their professional discretion to work on applications out of order if it leads to efficient examination.

Designs

[015] It is recognized that it is a routine and necessary practice for design examiners to work on applications outside a 3-6 month inventory of oldest regular new cases and that multiple applications are routinely searched together.

[016] Therefore, design examiners may continue this practice without needing to notify the SPE each biweek that they are doing so.

New Case Docket

[017] All applications on the new case docket will be prioritized for clock and asterisk assignment in the following manner:

- CONs, DIVs, and Regular New applications based on actual filing date.
- RCE applications by the date of the most recent RCE request.

[018] If there is not an oldest regular or continuing new in the new category and/or there are less than four asterisk cases associated with the oldest regular or continuing new identified for the biweek, the corresponding number (up to 5) of oldest applications in oldest filing date order will be considered as the oldest regular or continuing new and asterisk applications.

[019] If there is not an oldest RCE in the new category and/or there are less than two asterisk cases associated with the oldest RCE identified for the biweek, the corresponding number (up to 3) of oldest applications in oldest filing date order will be considered as the oldest RCE and asterisk applications.

Effects of Unexamined RCE Inventories

[020] Each examiner's docket will fall into one of three inventory levels based on the individual's docket inventory of unexamined RCEs. Effective June 28, 2015 (pay period

15, the beginning of the 4th quarter of FY 2015) the new inventory thresholds will be as follows:

- Inventory Level A: Dockets with 0-15 unexamined RCEs
- Inventory Level B: Dockets with 16-39 unexamined RCEs
- Inventory Level C: Dockets with 40 or more unexamined RCEs

[021] Please note that asterisk credit continues to be unavailable to examiners who have regular amended cases that have exceeded the ceiling. See the DM section of the [Patent Examiner PAP Guidelines](#) for further details.

[022] Examiners will be notified at the start of FY2015 pay period 19 (June 28, 2015) of their inventory level, which will be based on the number of RCEs on their docket at that time, and examiners will be notified when they change from one inventory level to another. The compositions of dockets and other stipulations for each level are provided below.

[023] Inventory Level A. Dockets with 0-15 Unexamined RCEs

- Examiners will have an inventory of 6 months of work available, unless as noted in paragraph [010] above, less than a 6 month inventory is available in an examiner's normally assigned technology(ies).
- The applications in the 6 month inventory will be a combination of Regular New applications, RCEs, CONs, and DIVs.
- At least 2 months' worth of applications of the 6 month inventory will be Regular New applications, CONs, or DIVs. No more than 4 months' worth of the 6 month inventory may be RCEs.
- One of the two 28 average day clocks will be a Regular New application, CON, or DIV. Three asterisked applications will be associated with this clock.
- The other of the two 28 average day clocks will be an RCE. Three asterisked applications will be associated with this clock.
- Examiners with no RCEs on their docket will have only one application with a 28 day average day "clock" running, and 6 asterisk applications.
- Should an examiner's unexamined RCE inventory exceed 15 RCEs for 2 consecutive biweeks, the examiner's docket will be adjusted according to section B or C below, whichever applies.

[024] Inventory Level B. Dockets with 16-39 RCEs

- Examiners will have an inventory of 6 months of work available, unless as noted in paragraph [010] above, less than a 6 month inventory is available in an examiner's normally assigned technology(ies).
- The applications in the 6 month inventory will be a combination of Regular New applications, RCEs, CONs, and DIVs.

- At least 2 months' worth of applications of the 6 month inventory will be Regular New applications, CONs, or DIVs. No more than 4 months' worth of the 6 month inventory may be RCEs.
- New applications clocks will be set to the two oldest RCEs. Six asterisk applications will be available, consisting of the next 6 oldest RCEs. Asterisk credit will be available if at least one of the clock RCEs is completed and posted for credit in the same pay period.
- If 20 or more RCEs are older than 4 months (based on the filing date of the RCE request) the examiner may not work on RCEs newer than 4 months from RCE filing date without supervisory approval.
- Should an examiner's RCE docket exceed 39 RCEs for 2 consecutive biweeks, the examiner's docket will be adjusted according to section C below.
- Once an examiner's RCE docket has 15 or fewer RCEs for 2 consecutive biweeks, the examiner's docket will be adjusted according to section A above.

[025] **Inventory Level C. Dockets with 40 or more RCEs**

- All Regular New and DIV applications will be removed from the examiner's docket. The inventory of applications will only consist of RCEs and CONs.
- SPEs will verify the following exceptions prior to removal of Regular New and DIVs:
 - Applications that the examiner has already started working on will not be removed.
 - Employees on a Signatory Review trial period will have access to two months' worth of Regular New applications, CONs, or DIVs.
 - Employees on LCAs with performance requirements, oral warnings, written warnings, or maintain periods will have access to two months' worth of Regular New applications, CONs, or DIVs.
 - All DIVs will be reviewed to verify that they are properly identified as DIVs rather than CONs.
- New applications clocks will be set to the two oldest RCEs. Six asterisk applications will be available, consisting of the next 6 oldest RCEs. Asterisk credit will be available if at least one of the clock RCEs is completed and posted for credit in the same pay period.
- If 20 or more RCEs are older than 4 months (based on the filing date of the RCE request) the examiner may not work on RCEs newer than 4 months from RCE filing date without supervisory approval.
- Once an examiner's RCE docket has 39 or fewer RCEs for 2 consecutive biweeks, the examiner's docket will be adjusted according to section A or B above, whichever applies.

IV. Changes to the Patent Examiner PAP and PAP Guidelines

[026] **Effective Date: October 1, 2015 (start of FY 2016)**

Amendment Scores (Category 1)

- [027] Under the provisions of the 1999 American Inventors Protection Act, Patent Term Adjustment accrues if the USPTO fails to respond to a reply or appeal by applicant within four months of the reply or appeal. This time is measured from the time the applicant's response is received by the Office to when an office action is mailed by the Office. While the DM system and award have resulted in improved timeliness of some categories of actions, the average processing time for responses to amendments has not declined. In FY 2011 (prior to DM), responses to amendments were mailed in an average of 53.9 days; in FY 2014, the average had risen to 55.6 days.
- [028] While recognizing that a large portion of examiners act on amendments promptly, the task force discussed a number of options to decrease the average processing time for amendments. To address those applications in which an amendment awaits action by the examiner significantly longer than the expected average days, the ceiling control days for Category 1 actions will be lowered to 84 days, a 14 day reduction from the prior ceiling.
- [029] Category 1 applications that exceed the ceiling control days will be recorded as a 168 day score (-100%), reduced from the previous 196 day score (-150%). The Category 1 expected average days will remain at 56 days.
- [030] If any Category 1 application exceeds the ceiling, all asterisk cases will be removed from the examiner's docket and no new asterisk cases will be designated until the number of Category 1 applications on the ceiling exceeded portion of the examiner's docket has been reduced to zero.

Return Scores (Category 5)

- [031] Corps-wide, the majority of actions which currently have exceeded the ceiling control days are returns, either from a reviewer or from TSS. As many of these actions are responses to amendments, time spent awaiting correction contributes toward the accrual of PTA once the application issues as a patent. Examiners and reviewers have a joint responsibility to facilitate completion of actions. It is especially important for SPEs and examiners to take steps to resolve returns so they can be mailed promptly.
- [032] Last fiscal year, the Patent Examiner PAP was modified with respect to how actions returned by the Technical Support Staff (TSS returns) are treated in the DM element of the PAP. During FY 2015, TSS returns cannot contribute more than 20% to an examiner's overall DM score, regardless of how many TSS returns are processed by the examiner, and the total PAP returns score is capped at 110%. However, the number of returns (both TSS and SPE/reviewer returns) which exceed the ceiling has continued to grow, resulting in delays in mailing completed work and increased pendency. As a result, it is necessary to further address returns in the DM element of the PAP.

- [033] As noted in the PAP guidelines, the Docket Management Plan (DMP) process is not a replacement for coaching and mentoring to assist an examiner in making needed corrections. Reviewers are encouraged to proactively offer assistance if they believe it will expedite the completion of the office action, preferably before the application reaches the ceiling control days. Examiners are encouraged to seek out assistance as soon as is reasonably possible in an effort to receive the necessary guidance and avoid undue delays in prosecution. SPEs, TC QASs, and assigned primary examiners are all available to assist Examiners with issues preventing them from completing or correcting an office action.
- [034] For FY 2016, the 20% cap on the contributing weight of TSS return scores will be replaced with a cap on the contributing weight of combined TSS and SPE/ reviewer returns. Accordingly, total return scores will be capped as follows:
- For permanent Full Signatory Examiners: the total return score (combined TSS and SPE/reviewer) may not contribute more than **15%** to an examiner's DM score.
 - For all other examiners: the total return score (combined TSS and SPE/reviewer) may not contribute more than **30%** to an examiner's DM score.
- [035] The cap applicable to each examiner will be determined by their level of permanent signatory authority on October 1st. For example, an examiner granted permanent full signatory authority on October 3rd will be treated as a non- full signatory examiner through the following September 30th for purposes of the DM return cap.
- [036] The 110% PAP score cap for total returns remains in place.

Docket Management Pauses

- [037] In the FY 2015 PAP guidelines, two types of pauses were set forth: a 5-day pause for absences of 5 days or more and a 28-day pause for 28 or more days of continuous absence for FMLA-type reasons. Starting FY 2016, there will be a total of five types of pauses (detailed below). These pauses will allow examiners to more easily take advantage of the flexibilities offered by the work schedules and leave options available to them.
- [038] For all types of pauses, applications may be reassigned if there is a reasonable expectation that they would have exceeded the ceiling during the time that the examiner is absent or for other business needs.
- [039] The five types of DM pauses that will be available starting in FY 2016 are described below.
- [040] **5-Day Pause (unchanged): Remains in effect as described in the PAP guidelines.**

[041] FMLA-type Pause (formerly known as the “28-day pause” -reduced from 28 to 21 days): The FMLA-type pause will correspond to a continuous approved absence of at least 21 calendar days, for reasons for which the employee would be eligible for FMLA or sick leave (i.e. this excludes vacations). All clocks in Categories 1-5 will be paused upon the examiner’s departure, and unpaused upon the examiner’s return.

[042] If an employee returns to the Office for 6 hours or less of examining or examining-related activities per week, this time will not cause clocks to be unpaused.

[043] When an examiner returns to work from an extended absence for FMLA-type reasons (when the FMLA-type pause is over), the SPE should work closely with the examiner to ensure that the amendment pipeline is replenished at a reasonable rate. Clocks for amendments received during the pause will start in a staggered manner. For example, if the examiner receives 8 amendments during a 4 biweek absence, then 2 amendment clocks will start each biweek thereafter. In this example, the examiner will be able to work on the remaining 6 paused amended cases. During or following a FMLA-type pause, the SPE will meet with the DM POC to review requirements and processes for restarting clocks that were paused during the absence. The DM POC and SPE will offer to meet with the examiner to answer any questions.

[044] When an examiner qualifies for a FMLA-type pause due to 21 days of continuous absence for reasons for which the employee would be eligible for FMLA or sick leave, any additional days of absence contiguous with the pause (before or after) for other reasons such as vacation will be treated as part of the FMLA-type absence.

[045] Vacation Pause (new): For a continuous approved absence of 28 or more calendar days excluding FMLA or FMLA-type absences, and sick leave, all clocks in Categories 1-5 which are less than the expected average days for the category on the last working day (Monday through Saturday) before the absence, will be paused. The clocks will be unpaused on the first day that the examiner returns to work.

[046] During the absence, no work may be submitted and no work hours may be claimed. If at any point during the 28 days an examiner submits any work or claims any work hours, the pause will be negated; clocks will be reset to run as if the pause had never occurred, although a new pause is not precluded if the employee is absent for an additional period of 28 or more contiguous calendar days. Crediting of an RCE disposal or an express abandonment will not cause a Vacation Pause to end. Applications which are over the expected average days prior to the beginning of the absence will not be paused due to the absence. For this reason, examiners are encouraged to plan ahead for vacations by completing

amendments and other cases prior to the expected average days and by completing asterisk cases.

[047] **Combined Pause (new):** For a continuous approved absence of 28 or more calendar days that is a combination of FMLA-type and vacation absences (e.g. 14 days of annual leave followed by 14 days of sick leave, such that the absence does not meet the FMLA-type pause requirement), applications which have not reached the expected average days on the last working day (Monday through Saturday) before the absence will be paused, and will resume on the first day that the examiner returns to work. During the absence, no work may be submitted and no work hours may be claimed. If at any point during the 28 days an examiner submits any work or claims any work hours, the pause will be negated; clocks will be reset to run as if the pause had never occurred, although a new pause is not precluded if the employee is absent for an additional period of 28 or more contiguous calendar days. If 21 contiguous days or more of the combined pause consist of a FMLA-type pause, the entire period will be treated as a FMLA-type pause (see para [044] above). Crediting of an RCE disposal or an express abandonment will not cause a Combined Pause to end. Applications which are over the expected average days prior to the beginning of the absence will not be paused due to the absence. For this reason, examiners are encouraged to plan ahead for vacations by completing amendments and other cases prior to the expected average days and by completing asterisk cases.

[048] **Military Pause (new):** For those on military leave, all clocks will be paused for the duration of the absence.

Elimination of the Over/Under Rule Associated with Interrupts

[049] The Over/Under Rule for DM Calculations due to interrupts will be eliminated. This means that when a case with a DM clock is interrupted (see the DM section of the Examiner PAP guidelines for a list of interrupts) there will be no score given to the examiner based on that interrupt. Normal ceiling exceeded rules still apply to cases with a DM clock, so if the interrupt occurs after the case exceeds the ceiling, the examiner will still get a ceiling exceeded score for that case. Interrupts will still continue to work the same way; however, no score will be associated with the interrupt.

[050] If the oldest new application is paused due to a proper transfer inquiry (TI), the zero day scores for asterisk-designated applications will be applied to the average day calculation if the TI was entered into PALM EXPO prior to 3:00 on the count Monday following the end of the biweek in which the asterisked application(s) are posted for credit.

[051] The following table summarizes adjustments made due to TIs. Examiners without transfer inquiry privileges are subject to the same rules as those with transfer inquiry

privileges, except that the DM credit or impact is based on the time when the examiner requests that a proper TI be initiated by another examiner or SPE. In the event that a proper TI is timely requested but entered into the transfer tool, by another, after the ceiling is reached, the examiner's SPE will request that a troubleshooter adjust the examiner's score to give 0 day credit for asterisk cases that were posted for credit. Examiners must provide their SPE with email or other documentation to establish when the transfer request was made.

Category 3 - New		
Oldest New Application	DM credit and impacts	
	for Oldest New	for Asterisks
TI entered or request before 3:00PM count Monday	No score at time of TI	Asterisks credit available
TI entered or requested after 3:00PM count Monday	<ul style="list-style-type: none"> - No score at time of TI - Ceiling exceeded score given when application exceeds the ceiling - If DMP case, normal DMP procedures apply 	No asterisks credits available for the associated oldest new
Category 1- Amendments		
Amendment	DM credit and impacts	
	for Amendment	for Asterisks
TI entered or requested before exceeding the ceiling	No score at time of TI	No Impact
TI entered or requested after exceeding the ceiling	<ul style="list-style-type: none"> - No score at time of TI - Ceiling exceeded score given when application exceeds the ceiling - If DMP case, normal DMP procedures apply 	No credit available until ceiling amendments are reduced to zero

V. Other Provisions Related to DM and the Examiner PAP

[052] The following items reflect current practices and procedures related to the PAP. They have been reproduced here for convenience; for a complete description of the PAP, examiners and SPEs should refer to the current PAP and the PAP guidelines.

PAP Docket Management Plans (DMP)

- [053] In situations where applications have exceeded the ceiling, the PAP provides for biweekly assignment of specific applications which must be posted for credit for that biweek in order to avoid entry of a DM score for that biweek.
- [054] Whether the SPE should add a docket management score for a case not posted for credit that has been placed on a DMP is addressed in the PAP guidelines and is unchanged as a result of this memorandum.
- [055] The number of applications assigned will be calculated using the number of examining hours in the biweek and the examiner's expectancy in hours/BD. If the examiner has 64 or more examining hours in the biweek, the calculation to determine the number of applications to be assigned is based on 64 examining hours. If the examiner has less than 64 examining hours, the number is calculated based upon the actual number of examining hours. "Examining hours" is defined to include regular examining time, overtime, compensatory time (worked) and credit hours (worked) charged to program codes 112012 (Utility Examiners) and 112030 (Design Examiners).
- [056] The number of examining hours is divided by the examiner's expectancy (hours/balanced disposal), the result is truncated at the decimal to the whole number, and 1 is added. If the number of examining hours divided by the expectancy is 0.49 or less, no addition of 1 occurs and no application will be assigned. Cases placed on Docket Management Plans will be separately identified and memorialized for future reference. Further information about DMPs, including examples of the calculation above, can be found in the PAP Guidelines.
- [057] Docket Management Scores for Cases not posted for Credit when on a Docket Management Plan.
- [058] The scores to be recorded if it is appropriate to report a score are as follows:
- i. **Biweeks 1 and 2 of case(s) being on a DMP** – Appropriate number of ceiling exceeded cases go onto DMP. If any case(s) that has been placed on a DMP is not posted for credit by end of counting for the biweek, another ceiling exceeded score for each incomplete case will be recorded except as in accordance with the PAP guidelines (fewer examining hours than expected). As noted in the PAP guidelines, the Docket Management Plan (DMP) process is not a replacement for coaching and mentoring to assist an examiner in making needed corrections. See paragraph [033].
 - ii. **Biweek 3 of DMP** – When a case has not been posted for credit during the first two biweeks that the case has been placed on a DMP, the SPE should send the following e-mail to the examiner during the first week (prior to 12:01 a.m. of the second

Sunday of the biweek). The SPE should use delivery receipts to confirm that the e-mail has been received.

[059] Language of email sent to employees:

Failure to post for credit cases assigned to you on a Docket Management Plan (DMP) has the potential for serious consequences for both the Agency and you. For the Agency delays can lead to statutory extensions to the term of any granted patent and may cost the American people through both higher prices and reduced economic competition. For you, failure to post cases for credit leads to added scores for the docket management element of your performance appraisal plan. I have already added a score for failure to complete the case prior to it reaching the ceiling exceeded date and two additional scores for failure to complete the work when it is assigned to you on your DMP.

Beginning this biweek, and for each biweek thereafter, if the case has not been posted for credit by the close of counting for the biweek and adding a score for purposes of evaluation under the docket management plan is appropriate in accordance with the PAP guidelines, I will be adding a score equal to the actual number of days from the date the case was assigned to you. For category 1, regular amendments, day one will be the first day of the first full pay period that the case is on your docket. It is important for you to post this case(s) for credit to avoid these scores which can seriously and negatively affect your performance rating under the docket management element.

I am available if you need assistance with this case(s). You may also discuss any issues preventing you from completing the case(s) with a Quality Assurance Specialist, or your assigned Primary examiner (if applicable). If there are multiple cases that you are directed to complete and you have insufficient time to allow completion of all cases, please inform me so that I may determine the priority in which those cases are to be completed.

If the case(s) have not been posted for credit, the SPE should add the actual day score (see Table 4 in the Docket Management element of the PAP) for those cases as indicated in the e-mail.

[060] Note: If the SPE (or designee) has not sent an e-mail containing the information set out above during the first week of the biweek, the score for failure to complete the case(s) shall remain the same as it was during biweeks 1 and 2.

- iii. **Biweek 4 and subsequent biweeks of DMP** – Once the SPE (or designee) has sent the e-mail as indicated in the paragraph above, the actual day score will be recorded for each biweek that the case(s) is not submitted for credit and for which it is appropriate under the PAP guideline to record a score.

- [061] Repeated failures to make a bona fide attempt to post DMP cases for credit may result in disciplinary action.

Other Related Initiatives

- [062] Although the vast majority of examiners are doing well under the Docket Management element, we want to make sure that all SPEs and examiners fully understand how docket management works to help the examiner determine which work to do to satisfy the evaluation standards set out in the performance appraisal plan. As such, we will be doing the following to help improve the understanding of this critical element:
- [063] General Training – optional training for all examiners highlighting DM change information (Auditorium sessions) and answering questions about the element.
- [064] Targeted Training for examiners with 10 or more ceiling exceeded cases (including face-to-face discussions).
- [065] Additional training materials will be provided on the examiner PAP task force intranet site as they become available.
- [066] Consultation – While your SPE remains your primary point of contact for all PAP issues, including docket management, each TC will appoint a POC to provide additional consultation or answer questions on how to manage your docket. A list of your TC POCs can be found in the DM Planner.
- [067] In addition, when an examiner begins an oral or written warning for docket management, the Docket Management Point of Contact (DM POC) for the TC will meet with the SPE and offer to meet with the examiner to review requirements and processes.

Part Time Examiner 14 Day Clocks

- [068] Fourteen day clocks for Expedited, Special Amended, and Return cases on a part time examiner's docket remain at zero for 6 days. The clock for these cases turns one on day 7. Please note that this adjustment does not interfere with or replace the existing short clock pause applied to 14 day cases for all examiners with 5 or more consecutive days of approved absence.

Autocount Process

- [069] In FY 2011, the Agency, as part of the Examiner Performance Appraisal Plan package developed by the joint task force with POPA, implemented "autocount," a process under which GS-12 and GS-13 examiners are given production credit for non-final office actions before review by an examiner with signatory authority. The autocount process has provided examiners with greater certainty as to their production, and allowed reviewers to more thoroughly review actions throughout each pay period.

Since autocount began, the Agency has seen an increase in the number of office actions awaiting correction and an increase in patent term adjustment.

[070] To address this problem, for GS-12 and GS-13 examiners without temporary or permanent signatory authority, the Agency will track:

(Group 1) the number of SPE returns that exceed the ceiling (28 days), and

(Group 2) the number of SPE returns that have been in return status on an examiner's docket for more than 28 days cumulatively.

[071] For example, if an action is returned to an examiner three times by the reviewer, and each time the return is on the examiner's docket for 10 days before being resubmitted, this will result in a cumulative return time of 30 days, which is greater than 28 days, and the action falls into Group 2. For an action to be in Group 2, all 28 days do not need to be in a single quarter.

[072] If a GS-12 or GS-13 examiner without temporary or permanent signatory authority has two returns during a single quarter that fall into Group 1, Group 2, or a combination of the two groups (i.e. – one from Group 1 and one from Group 2), then that examiner's autocount privilege is temporarily suspended.

[073] For examiners whose autocount has not been suspended, the tally of Group 1 and Group 2 returns resets at the start of each new quarter. For examiners whose autocount has been suspended, the tally resets once autocount is restored. The number of days that the examiner has had a returned action does not reset at the end of a quarter.

[074] Examiners who have had autocount temporarily suspended will instead have a five day delayed autocount. For examiners in this situation, once an action has been posted for credit, a reviewer will have five calendar days to either return the action with comments or to approve the action. Actions not returned or approved within five days will be autocounted. The reviewer's 5 day review period will begin the day after the action is submitted. However, to insure that an action is approved, returned, or autocounted in the current pay period, the employee must submit the action for credit before 3:00 p.m. on the second Wednesday of the pay period.

[075] Once suspended, autocount will be restored after all returns that have fallen into Group 1 or Group 2 have been approved, and one additional pay period has passed without any new returns falling into either Group 1 or Group 2.

[076] Examiners and reviewers will be notified when autocount is suspended and restored. During the temporary suspension of an examiner's autocount, both the examiner and the reviewer(s) are expected to retain copies of actions posted for credit and reviewer returns.

Clarification of Docket Management Deadlines for Amendments and Docket Management Plan applications

- [077] In order to receive DM credit for Amendments and Docket Management Plan applications, for a particular pay period, an action must be counted by 3:00 p.m. (Eastern Time) on count Monday. Actions counted after 3:00 p.m. will receive DM credit in the next pay period. Amendments and Docket Management Plan applications that exceed the ceiling because they were not submitted by 3:00 p.m. on count Monday will receive the penalty score in the just-ended pay period. A DMP application must be posted for credit by 3:00 p.m. on count Monday to avoid the DMP penalty score.
- [078] An amendment that reaches the ceiling (84 days, formerly 98 days) on the second Saturday of a pay period or the first Sunday of the next pay period (new pay period) must be posted for credit by 3:00 p.m. on the first Monday of the new pay period (count Monday) to avoid exceeding the ceiling and to avoid the loss of asterisks.
- [079] DMP assignments for a pay period will be made no later than 48 hours after the previous pay period's counting is completed (normally 3:00 p.m. on the first Wednesday of that pay period), unless the Office is closed in that 48-hour period, in which case the assignments will be made no later than the number of hours the office was closed after the 48-hour deadline.

Attachment: Inventory of Regular New, RCE, CON, and DIV applications

Inventory of Oldest Regular New Applications								
Updated 11/19/12								
Inventory = ((0.75 x 80 hours)/HRs per PU) x 2 counts per PU x number of pay periods x 38%								
Examiner Expectancy HRs/PU at current grade	3 Month Inventory	6 Month Inventory	Examiner Expectancy HRs/PU at current grade	3 Month Inventory	6 Month Inventory	Examiner Expectancy HRs/PU at current grade	3 Month Inventory	6 Month Inventory
6	49	99	26	11	23	46	6	13
6.5	46	91	26.5	11	22	46.5	6	13
7	42	85	27	11	22	47	6	13
7.5	40	79	27.5	11	22	47.5	6	12
8	37	74	28	11	21	48	6	12
8.5	35	70	28.5	10	21	48.5	6	12
9	33	66	29	10	20	49	6	12
9.5	31	62	29.5	10	20	49.5	6	12
10	30	59	30	10	20	50	6	12
10.5	28	56	30.5	10	19	50.5	6	12
11	27	54	31	10	19	51	6	12
11.5	26	52	31.5	9	19	51.5	6	12
12	25	49	32	9	19	52	6	11
12.5	24	47	32.5	9	18	52.5	6	11
13	23	46	33	9	18	53	6	11
13.5	22	44	33.5	9	18	53.5	6	11
14	21	42	34	9	17	54	5	11
14.5	20	41	34.5	9	17	54.5	5	11
15	20	40	35	8	17	55	5	11
15.5	19	38	35.5	8	17	55.5	5	11
16	19	37	36	8	16	56	5	11
16.5	18	36	36.5	8	16	56.5	5	10
17	17	35	37	8	16	57	5	10
17.5	17	34	37.5	8	16	57.5	5	10
18	16	33	38	8	16	58	5	10
18.5	16	32	38.5	8	15	58.5	5	10
19	16	31	39	8	15	59	5	10
19.5	15	30	39.5	8	15	59.5	5	10
20	15	30	40	7	15	60	5	10
20.5	14	29	40.5	7	15	60.5	5	10
21	14	28	41	7	14	61	5	10
21.5	14	28	41.5	7	14	61.5	5	10
22	13	27	42	7	14	62	5	10
22.5	13	26	42.5	7	14	62.5	5	9
23	13	26	43	7	14	63	5	9
23.5	13	25	43.5	7	14	63.5	5	9
24	12	25	44	7	13	64	5	9
24.5	12	24	44.5	7	13	64.5	5	9
25	12	24	45	7	13	65	5	9
25.5	12	23	45.5	7	13	65.5	5	9

CSI Docket Management FAQs

Return Cap:

1. If I am granted permanent full signatory authority during the fiscal year, does my return cap change from 30% to 15% on the day I become a primary?
 - No. The cap is based on your signatory status on October 1st of the fiscal year. Only if you have permanent full signatory authority on October 1st would the 30% cap apply to you for the entire fiscal year.

Pauses:

2. If I take a 2 week vacation and before I return to work I become sick and end up taking sick leave for 22 days, what type of pause do I receive?
 - Since your FMLA-type absence was for over 21 days (22 in this case) then you receive a FMLA- pause for the 22 days you were sick. Additionally, provided you didn't claim any work hours or submit any work during the vacation leave, the days of vacation leave will also be considered part of the FMLA pause.
3. If I take a 3 week vacation and become sick on day 20 of the vacation and end up taking sick leave for another 10 continuous days after 20 days of the vacation leave, what type of pause do I receive?
 - Because you were out for 30 consecutive days but only 10 of those days were for a FMLA-type event, you would receive a combination pause for 30 days. Note that in order to qualify for a combination pause, no work hours can be claimed or work submitted for the duration of the pause.
4. If I submit work or claim any work time, even for 15 minutes, in the middle of a 29 day vacation, do I still receive a vacation pause?
 - No, any work submitted or any time claimed during a vacation pause stops the vacation pause and clocks will be reset as if they had never been paused. In order to qualify for a vacation pause, there must be at least 28 contiguous days of approved absence with no work submitted and no work hours claimed.
5. Since the FMLA-type pause is being implemented on October 1, 2015, can hours worked prior to October 1st count towards an FMLA-type pause? For example, I got sick on September 20th and was out for 22 days until October 13th, would I receive the FMLA-type pause?
 - Yes you would still receive the FMLA-type pause.

6. I'm getting ready to go on a vacation overseas for 6 weeks and I have three amendments that will be over the expected average days before I leave, will those amendments be paused as a part of my vacation pause?
- No. If you fail to complete those cases before you go on vacation, they will continue to accrue days while you are away and hit the ceiling at day 84. You should prepare your docket, including completing all applications above the expected average days, before a lengthy absence.
7. I just got back from a 6 week overseas vacation. While I was on vacation, 20 new amendments were placed on my docket. What happens to the clocks of these amendments?
- On the day you come back, the clocks will be unpaused on all 20 amendments. Also, any other clocks that were below the expected average days when you left will be unpaused when you come back. Since the start date for amendments is the beginning of the biweek after they are placed on your docket, clocks for any amendments placed on your docket during the biweek you return will start the first Sunday of the next biweek as per the normal process.
8. What are the ceiling exceeded and expected average days for each category?

TABLE 3			
Cat.	Component (Action Types)	Expected Average Days	Ceiling Control (Days)
1	Amendments response to non-final OA, Appeal Briefs	56	84 ¹
2	Special New: e.g. PPH, Accelerated Examination, Petitions to Make Special, Track 1, PCT, Reexam, Reissues, etc.	14	28
	Special Amended: e.g. PPH, Accelerated Examination, Petitions to Make Special, Board Decisions/Remands	14	28
3	New ² : Regular New, Continuations in Part (CIPs), Continuations, Divisionals, RCEs	28	56
4	Expedited: e.g. After Finals, Responses under 37 CFR 1.312, PUBs Cases (Printer Rushes)	14	28
5	Returns (Returned by TSS & Reviewer)	14	28

1 When an amendment exceeds the 84 day ceiling a -100% score (equivalent to 168 days) will be recorded for the application.

2 In this category additional cases will be identified so the examiner can work ahead provided the oldest case in the component is completed in the pay period.

9. I have one application that has exceeded the expected average days. Do I still receive a vacation pause for the remaining cases in that category?
- Yes, all cases under the expected average will be paused.

Transfer Inquires:

10. On day 55, I realize that my oldest New case needs to be transferred. If I enter the transfer inquiry (TI), or request entry into the system, am I eligible to receive asterisk credit for cases in that biweek?
- Yes, as long as the TI is valid (meaning it is either placed in the system by an SPE or examiner with TI privileges or requested in the biweek and validated by an SPE or examiner with TI privileges) you will be eligible for asterisk credit on other new cases in that same biweek.

Other FAQs:

11. On October 1, 2015, what happens to amendments on my docket that are between 84 and 96 days old?
- Nothing, follow normal processing rules of the 98 day ceiling. However on October 5, 2015, any amendments on your docket that are over 84 days old will be considered as exceeding the ceiling. For each application, a 168 day score will be recorded for pay period 1 of FY 16. To avoid this, it is recommended that all amendments that will be older than 84 days on October 5, 2015, be posted for credit before the close of counting (3:00 pm October 5th, 2015).

**CLASSIFICATION AND
PERFORMANCE MANAGEMENT RECORD**

☐ NEW _____
☐ I/A: _____
MR #: _____
IP #: _____

* Performance Plan * Performance Appraisal * Performance Recognition * Progress Review * Position Description

Employee's Name: _____ Social Security No: _____

Position Title : _____ Patent Examiner

Pay Plan, Series, Grade/Step: _____ GS-1224-12 Non-probationary

Organization: 1. _____ Department of Commerce 4. _____ Patent Examining Groups
2. _____ Patent & Trademark Office 5. _____ Technology Center
3. _____ D/C for Patent Operations 6. _____ Art Unit

Rating Period: _____

Covered By: ☐ Senior Executive Service

☒ General Workforce

☐ Other _____

PART A - POSITION DESCRIPTION

POSITION CERTIFICATION: I certify that this is an accurate statement of the major duties and responsibilities of the position and its organization relationships and that the position is necessary to carry out the Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds and that false or misleading statements may constitute violation of such statute or their implementing regulations.

SUPERVISOR'S SIGNATURE	DATE	SECOND LEVEL SUPERVISOR	DATE
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CLASSIFICATION CERTIFICATION	OFFICIAL TITLE:				
	PP:	SERIES	FUNC:	GRADE	I/A: <input type="checkbox"/> YES <input type="checkbox"/> NO

I certify that this position has been classified as required by Title 5, US Code, in conformance with standards published by the OPM or, if no published standards applies directly, consistently with the most applicable published standards.

NAME AND TITLE OF CLASSIFIER	SIGNATURE	DATE
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PART B - PERFORMANCE PLAN

This plan is an accurate statement of the work that will be the basis of the employee's performance appraisal.

NAME AND TITLE OF THE FIRST LINE SUPERVISOR/RATING OFFICIAL	SIGNATURE	DATE
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APPROVAL - I agree with the certification of the position description and approving the performance plan.

NAME AND TITLE OF APPROVING OFFICIAL OR SES APPOINTING AUTHORITY	SIGNATURE	DATE
--	-----------	------

EMPLOYEE ACKNOWLEDGEMENT - My signature acknowledges discussion of the position description and receipt of the plan, and does not necessarily signify agreement.	SIGNATURE	DATE
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PRIVACY ACT STATEMENT - Disclosure of your social security number on this form is voluntary. The number is linked with your name in the official personnel records system to ensure unique identification of your records. The social security number will be used solely to ensure accurate entry of your performance rating into the automated record system.

Instructions for Completing the Performance Management Record

A. Performance Planning. Complete Items 1, 2, and 3 of Section I by following these seven steps:

Step 1. Identify the performance elements of the employee's job (Item 1). Performance elements are brief, two or three word descriptions of the major responsibilities. (Fill out a separate Section 1 for each performance element.)

Step 2. Identify each element as critical or non-critical. Specify whether it is management by objective (MBO). (if so, it must be designated as critical.)

Step 3. State the objective of the element by writing a brief statement that defines what the element is intended to accomplish; focus on the overall result. An example of an objective is "To carry out organizational responsibilities by developing and implementing effective administrative procedures."

Step 4. Assign a weight to the element to show the time devoted to accomplishing the element and/or its importance. The total weight of all performance elements in the plan must equal 100.

Step 5. Identify the major activities (Item 2) or results needed to accomplish the performance element, e.g. develop an operating budget for the office, complete performance plans for all staff.

Step 6. Complete Item 3, "Criteria for Evaluation" by listing any performance standards that will be used to supplement the Generic Performance Standards (GPS) listed in Appendix A. The GPS must be used to evaluate employee performance. Supplemental standards must be included if they (a) apply to a particular element and (b) will be used to evaluate the employee's performance of the element.

Step 7. On the cover page of this form: (a) the rating official must certify as to the accuracy of the employee's position description (p.d.) and authorize the performance plan; (b) the approving official or SES appointing authority must approve the p.d. certification and the performance plan; and (c) the employee must acknowledge discussion of the p.d. and receipt of the performance plan.

B. Progress Review. At least once, near the mid-point of the appraisal period, the rating official must conduct a progress review with the employee by completing the following three steps:

Step 1. For each element in the performance plan, discuss: (a) The employee's progress toward accomplishing the element; (b) The need for any changes to the plan; and (c) any performance deficiencies noticed, along with recommendations on how to improve them.

Step 2. Complete Item 4, "Progress Review" of Section 1, noting the areas discussed in step 1.

Step 3. Initial and date the appropriate block in Item 4 (for each performance element) and have the employee do the same to indicate that the progress review took place.

C. Performance Appraisal. Near the end of the appraisal period,

the employee's performance during the year must be appraised formally on the basis of the performance plan by completing the following steps:

Step 1. The rating official formally notifies the employee of the date and time for the appraisal meeting.

Step 2. The employee may participate in a pre-appraisal meeting with the rating official to present his/her assessment of his/her performance during the appraisal period.

Step 3. The rating official complete Item 5, "Element Rating and Justification," of Section 1 for each performance element, noting specific accomplishments resulting from the employee's performance and relating them to the appropriate rating level (5-Outstanding, 4-Commendable, 3-Fully Successful, 2-Marginal, (Minimally Successful for SES) 1-Unacceptable (Unsatisfactory for SES)). Note: Element ratings of Fully Successful do not require written documentation unless employee requests it. To assign a Fully Successful element rating, the rating official need only document that: (a) the fully successful standards were met, and; (b) that the rating was discussed with the employee.

Step 4. The rating official completes Item 1 of Section II, "Performance Summary and Rating," by transferring the appropriate rating information from each performance element to the summary sheet.

Step 5. Item 2, "Performance Rating," of Section II is completed by the rating official and signed by the approving official before the rating is discussed with the employee. NOTE: If any critical element is rated less than fully successful, the final rating can be no higher than the lowest critical element rating.

Step 6. All the information documented in Steps 3-5 above is discussed with the employee at the formal appraisal meeting and a copy of the rating is given the employee. The employee signs the form acknowledging that an appraisal meeting was held.

Step 7. The employee may comment in writing to the approving official on his/her summary rating within 5 days of receipt. The approving official must respond in writing to any comments within 10 days of receipt. If the approving official changes a rating, he/she must document the reasons in Item 5.a. of 396A. A copy of the final rating must be given to the employee.

Step 8. For SES Employees Only - The rating official completes Item 3 and submits the entire form (and any employee comments) to the appropriate Performance Review Board (PRB) for its review and recommendations. The PRB chair signs the correct block in Item 3 and forwards the recommendations and the form to the SES Appointing Authority who then assigns the final rating by completing Item 3.4. A copy of the final rating must be given to the employee.

Step 9. For general workforce employees only - The rating official completes any recommendations for performance awards in Section III, and forwards through the approving official, to the proper channels for processing the award.

APPENDIX A

GENERIC PERFORMANCE STANDARDS

INSTRUCTIONS

The generic performance standards (GPS) are the primary basis for assigning element ratings in the Department of Commerce. The GPS are to be applied to each critical (and non-critical) element in the performance plan. (Summary ratings are assigned by using a point scale after each element has been rated.)

When evaluating an element, the rater should:

- 1 Read carefully each performance standard level beginning with the fully successful one (it is considered the base level standard.)
- 2 Determine which level best describes the employee's performance on the element. (Each and every criterion in the standards does not have to be met by the employee in absolute terms for the rater to assign a particular rating level. The sum of the employee's performance of the element must, in the rater's judgment, meet the assigned level's criteria.)
- 3 Provide in writing, on the appraisal form, specific examples of accomplishments which support the assigned rating level.

Element ratings of fully successful do not require full written documentation unless the employee requests it. To assign a fully successful element rating the rating official need only document in writing that (1) the fully successful standards were met, and (2) that the rating was discussed in detail with the employee.

Occasionally, when rating some elements, a rating official may determine that an employee's performance on an element was not consistent. For example, the employee may have performed at the commendable level on several major activities within a critical element and at the marginal level on several others. In such a case, the rating official must consider the overall effect of the employee's work on the element and make a judgment as to the appropriate rating he/she will assign. The rationale for the decision must be documented on the rating form citing specific accomplishments which support the decision.

Any additional standards that are included in the performance plan must also be considered by the rating official. Such standards are included in performance plans to supplement GPS, not to supplant them. Rating officials should consider such standards within the context of the GPS and rate elements accordingly.

OUTSTANDING

SES

This is a level of rare high-quality performance. The employee has performed so well that organizational goals have been achieved that would not have been otherwise. The employee's mastery of the technical skills and thorough understanding of the mission have been fundamental to the completion of program objectives.

The employee has exerted a major positive influence on management practices, operating procedures, and program implementation, which has contributed substantially to organizational growth and recognition. Preparing for the unexpected, the employee has planned and used alternate ways of reaching goals. Difficult assignments have been handled intelligently and effectively. The employee has produced an exceptional quantity of work often ahead of established schedules and with little supervision.

In writing and speaking, the employee presents complex ideas clearly in a wide range of difficult communications situations. Desired results are attained.

GENERAL WORK FORCE

This is level of rare, high-quality performance. The quality and quantity of the employee's work substantially exceed fully successful standards and rarely leave room for improvement. The impact of the employee's work is of such significance that organizational objectives were accomplished that otherwise would not have been. The accuracy and thoroughness of the employee's work on this element are exceptionally reliable. Application of technical knowledge and skills goes beyond that expected for the position. The employee significantly improves the work processes and products for which he or she is responsible. Thoughtful adherence to procedures and formats, as well as suggestions for improvement in these areas, increase the employee's usefulness.

This person plans so that work follows the most logical and practical sequence; inefficient backtracking is avoided. He or she develops contingency plans to handle potential problems and adapts quickly to new priorities and changes in procedures and programs without losing sight of the longer-term purposes of the work. These strengths in planning and adaptability result in early or timely completion of work under all but the most extraordinary circumstances. Exceptions occur only when delays could not have been anticipated. The employee's planning skills result in cost-savings to the government.

In meeting element objectives, the employee handles interpersonal relationships with exceptional skill, anticipating and avoiding potential causes of conflict and actively promoting cooperation with clients, co-workers, and his or her supervisor.

The employee seeks additional work or special assignments related to this element at increasing levels of difficulty. The quality of such work is high and is done on time without disrupting regular work. Appropriate problems are brought to the supervisor's attention, most problems are dealt with routinely and with exceptional skill.

The employee's oral and written expression are exceptionally clear and effective. They improve cooperation among participants in the work and prevent misunderstandings. Complicated or controversial subjects are presented or explained effectively to a variety of audiences so that desired outcomes are achieved.

SUPERVISORY

The employee is a strong leader who works well with others and handle difficult situations with dignity and effectiveness. The employee encourages independence and risk-taking among subordinates, yet takes responsibility for their actions. Open to views of others, the employee promotes cooperation among peers and subordinates, while guiding, motivating, and stimulating positive responses. The employee's work performance demonstrates a strong commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

COMMENDABLE

SES

This is a level of unusually good performance. It has exceeded expectations in critical areas and shows sustained support of organizational goals. The employee has shown a comprehensive understanding of the objectives of the job and procedures for meeting them.

The effective planning of the employee has improved the quality of management practices, operating

procedures, task assignments, or program activities. The employee has developed or implemented workable and cost-effective approaches to meeting organizational goals.

The employee has demonstrated an ability to get the job done well in more than one way, while handling difficult and unpredicted problems. The employee produces a high quantity of work, often ahead of established schedules with less than normal supervision.

The employee writes and speaks clearly on difficult subjects to a wide range of audiences.

GENERAL WORK FORCE

This is a level of unusually good performance. The quantity and quality of work under this element are consistently above average. Work products rarely require even minor revision. Thoroughness and accuracy of work are reliable. The knowledge and skill the employee applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The employee follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.

The employee plans the work under this element so as to proceed in an efficient, orderly sequence that rarely requires backtracking and consistently leads to completion of the work by established deadlines. He or she use contingency planning to anticipate and prevent problems and delays. Exceptions occur when delays have causes outside the employee's control. Cost savings are considered in the employee's planning.

The employee works effectively on this element with co-workers, clients, as appropriate, and his or her supervisor, creating a highly successful cooperative effort. He or she seeks out additional work or special assignments that enhance accomplishment of this element and pursues them to successful conclusion without disrupting regular work. Problems which surface are dealt with; supervisory intervention to correct problems occurs rarely.

The oral and written expression applied to this element are noteworthy for their clarity and effectiveness, leading to improved understanding of the work by other employees and clients of the organization. Work products are generally given sympathetic consideration because they are well presented.

SUPERVISORY

The employee is a good leader, establishes sound working relationships and shows good judgment in dealing with subordinates, considering their views. He/she provides opportunities for staff to have a meaningful role in accomplishing organizational objectives and makes special efforts to improve each subordinate's performance.

FULLY SUCCESSFUL

SES

This is the level of good, sound performance. The employee has contributed positively to organizational goals. All critical element activities that could be completed are. The employee effectively applies technical skills and organizational knowledge to get the job done.

The employee successfully carries out regular duties while also handling any difficult special assignments. The employee plans and performs work according to organizational priorities and schedules.

The employee also works well as a team member supporting the group's efforts and showing an ability to handle a variety of interpersonal situations.

The employee communicates clearly and effectively.

All employees at this level and above have followed a management system by which work is planned, tasks are assigned, and deadlines are met.

GENERAL WORK FORCE

This is the level of good, sound performance. The quality and quantity of the employee's work under this element are those of a fully competent employee. The performance represents a level of accomplishment expected of the great majority of employees. The employee's work products fully meet the requirements of the element. Major revisions are rarely necessary; most work requires only minor revision. Tasks are completed in an accurate, thorough, and timely way. The employee's technical skills and knowledge are applied effectively to specific job tasks. In completing work assignments, he or she adheres to procedures and format requirements and follows necessary instructions from supervisors.

The employee's work planning is realistic and results in completion of work by established deadlines. Priorities are duly considered in planning and performing assigned responsibilities. Work reflects a consideration of cost to the government, when possible.

In accomplishing element objectives, the employee's interpersonal behavior toward supervisors, co-workers, and users promotes attainment of work objectives and poses no significant problems.

The employee completes special assignments so their form and content are acceptable and regular duties are not disrupted. The employee performs additional work as his/her workload permits. Routine problems associated with completing assignments are resolved with a minimum of supervision.

The employee speaks and writes clearly and effectively.

SUPERVISORY

The employee is a capable leader who works successfully with others and listens to suggestions.

The employee rewards good performance and corrects poor performance through sound use of performance appraisal systems performance-based incentives and when needed, adverse actions, and selects and assigns employees in ways that use their skills effectively.

The employee's work performance shows a commitment to fair treatment, equal opportunity, and the affirmative action objectives of the organization.

MARGINAL

SES

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective. The employee's work under this element is at a level which may result in removal from the position.

There is much in the employee's performance that is useful. However problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other

personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in decreased quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written and oral communications usually consider the nature and complexity of the subject and the intended audience. They convey the central points of the information important to accomplishing the work. However, too often the communications are not focused, contain too much or too little information, and/or are conveyed in a tone that hinder achievement of the purpose of the communications. The listener or reader must question the employee at times to secure complete information or avoid misunderstandings.

GENERAL WORK FORCE

This level of performance, while demonstrating some positive contributions to the organization, shows notable deficiencies. It is below the level expected for the position, and requires corrective action. The quality, quantity or timeliness of the employee's work is less than Fully Successful, jeopardizing attainment of the element's objective.

There is much in the employee's performance that is useful. However problems with quality, quantity or timeliness are too frequent or too serious to ignore. Performance is inconsistent and problems caused by deficiencies counterbalance acceptable work. These deficiencies cannot be overlooked since they create adverse consequences for the organization or create burdens for other personnel. When needed as input into another work process, the work may not be finished with such quality, quantity and timeliness that other work can proceed as planned.

Although the work products are generally of useable quality, too often they require additional work by other personnel. The work products do not consistently and/or fully meet the organization's needs. Although mistakes may be without immediate serious consequences, over time they are detrimental to the organization.

A fair amount of work is accomplished, but the quantity does not represent what is expected of Fully Successful employees. Output is not sustained consistently and/or higher levels of output usually result in decreased quality. The work generally is finished within expected timeframes but significant deadlines too often are not met.

The employee's written and oral communications usually consider the nature and complexity of the subject and the intended audience. They convey the central points of the information important to accomplishing the work. However, too often the communications are not focused, contain too much or too little information, and/or are conveyed in a tone that hinder achievement of the purpose of the communications. In communications to coworkers, the listener or reader must question the employee at times to secure complete information or avoid misunderstandings.

SUPERVISORY

Inadequacies surface in performing supervisory duties. Deficiencies in areas of supervision over an extended period of time affect adversely employee

productivity or morale or organizational effectiveness. The marginal employee does not provide strong leadership or take the appropriate initiative to improve organizational effectiveness. For example, he/she too often fails to make decisions or fulfill supervisory responsibilities in a timely manner to provide sufficient direction to subordinates on how to carry out programs, to give clear assignments and/or performance requirements, and/or to show an understanding of the goals of the organization or subordinates' roles in meeting those goals.

UNSATISFACTORY

SES

This is the level of unacceptable performance. Work products do not meet the minimum requirements of the critical element.

Most of the following deficiencies are typically, but not always, characteristic of the employee's work:

- * Little or no contribution to organizational goals;
- * Failure to meet work objectives;
- * Inattention to organizational priorities and administrative requirements;
- * Poor work habits resulting in missing deadlines, incomplete work products;
- * Strained work relationships;
- * Failure to respond to client needs; and/or
- * Lack of response to supervisor's corrective efforts.

GENERAL WORK FORCE

The quantity and quality of the employee's work under this element are not adequate for the position. The employee's work products fall short of requirements of the element. They arrive late or often require major revision because they are incomplete or inaccurate in content. The employee fails to apply adequate technical knowledge to complete the work of this element. Either the knowledge applied cannot produce the needed products, or it produces technically inadequate products or results. Lack of adherence to required procedures, instructions, and formats contributes to inadequate work products.

Because the employee's work planning lacks logic or realism, critical work remains incomplete or is unacceptably late. Lack of attention to priorities causes delays or inadequacies in essential work, the employee has concentrated on incidental matters.

The employee's behavior obstructs the successful completion of the work by lack of cooperation with clients, supervisor, and/or co-workers, or loss of credibility due to irresponsible speech or work activities.

In dealing with special projects, the employee either sacrifices essential regular work or fails to complete projects. The employee fails to adapt to changes in priorities, procedures, or program direction and therefore, cannot operate adequately in relation to changing requirements.

The oral and written expression the employee uses in accomplishing the work of this element lacks necessary clarity for successful completion of required tasks. Communication failures interfere with completion of work.

SUPERVISORY

Most of the following deficiencies are typical, but not always, common, characteristics of the employee's work:

- * Inadequate guidance to subordinates;
- * Inattention to work progress; and
- * Failure to stimulate subordinates to meet goals.

***Supervisory standards must be applied to SES and General Work Force supervisors.**

SECTION 1 - PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name

Date

Sheet No. 1 of 11

Item 1. Performance Element and Objective (Identify as Critical or Non-critical, and if it being tracked at the department level)

☒ **Critical** ☐ Non-Critical ☐ Management-by-Objectives (MBO)

Element: **I. Production**

Objective To achieve assigned expectancy.

Weighting Factor: (Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100.)
Enter Weight for this element in the adjacent box:

35

Item 2. Major Activities (Identify activities or results that need to be accomplished in support of the performance element.)

The examiner examines assigned patent applications from first action to final disposition within an assigned expectancy (hours per balanced disposal (BD)).

Item 3. Criteria for Evaluation (Use generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.)

An examiner shall be assigned a rating with respect to Production as follows:

110% or above	Outstanding
103% - 109%	Commendable
95% - 102%	Fully Successful
88% - 94%	Marginal*
below 88%	Unacceptable

*Note: Continued or repetitive performance at this level adversely impacts upon the efficiency of the service under the performance element.

All percentages shall be rounded off to the nearest whole number (i.e., 109.49% rounds to 109% and 109.50% rounds to 110%).

With respect to this element your goal in the docket to which you have been assigned is listed on the Productivity Attachment. It should be noted that if your GS position factor changes during the rating period your evaluation will be based on a composite goal pro-rated for the periods in each GS position factor.

The supplemental performance standards for evaluation of production are follows:

Achievement shall be recognized in terms of percentage achievement of $\frac{\text{Calculated Production Hours}}{\text{Total Examining Hours}}$.

Where: Calculated Production Hours = (Balance Disposals (BD) Achieved) × (Adjusted Expectancy for the period);

and Total Examining Hours = Total Examining Hours for the period.

Optional Initial Block

Emp.

Date

Supv.

Date

SECTION 1 - PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name

Date

Sheet No. 2 of 11

When calculating the number of BDs achieved, the higher of the following two calculations shall be used:

Option 1) $BD = \frac{(N+D)}{2}$ where **N** is the number of First Actions on the Merits and **D** is the number of Disposals. If Option 1 is used, your goal is the "Actual Expectancy (Exp/PF)"

Option 2) $BD = \frac{(Counts)}{2}$ where the number of counts is the sum of the counts earned for actions as shown in Table 1. If Option 2 is used, your goal is the "Adjusted Actual Expectancy (Exp./PF + Adj.)"

TABLE 1

	Action by same examiner as previous action						Initial action by different examiner than previous action		
							These values are only available if the immediately previous action is an action on the merits done by the previous examiner.		
	- Regular new, - CON, - DIV, - CIP, or - reissue, in which no RCE has been filed, and - RCEs, other than those listed in items 1-3 in the footnote below.		1st RCE: - Regular new, - CON, - DIV, - CIP, or - reissue, in which one RCE has been filed.		2nd or subsequent RCE: - Regular new, - CON, - DIV, - CIP, or - reissue, in which two or more RCEs have been filed.		- Regular new, - CON, - DIV, - CIP, or - reissue, in which no RCE has been filed.		2nd or subsequent RCE: - Regular new, - CON, - DIV, - CIP, or - reissue, in which two or more RCEs have been filed.
	Total credit available = 2.0 counts		Total credit available = 1.75 counts		Total credit available = 1.5 counts		Total credit available for new examiner = 1.5 counts	Total credit available for new examiner = 1.75 counts	Total credit available for new examiner = 1.75 counts
	Before Final	After Final	Before Final	After Final	Before Final	After Final			
column	A	B	C	D	E	F	G	H	I
Action:	Counts:						Counts:		
Express Abandonment	0.75	0.50	0.75	0.50	0.75	0.50	N/A	N/A	N/A
Restriction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
FAOM Non-final Rejection	1.25	N/A	1.00*	N/A	0.75*	N/A	N/A	1.00*	1.00*
FAOM Allowance	2.00	N/A	1.75*	N/A	1.50*	N/A	1.50	1.75*	1.75*
FAOM ex parte Quayle	1.50	N/A	1.25*	N/A	1.00*	N/A	1.00	1.25*	1.25*
Ex parte Quayle (not FAOM)	0.25	0.00	0.25	0.00	0.25	0.00	1.00	1.25	1.25
FAOM Final Rejection	1.50	N/A	1.25*	N/A	1.00*	N/A	1.00	1.25*	1.25*
Non-Final Rejection (not FAOM)	0.00	0.00	0.00	0.00	0.00	0.00	0.75	1.00	1.00
Final Rejection	0.25	0.00	0.25	0.00	0.25	0.00	1.00	1.25	1.25
Advisory Action	N/A	0.00	N/A	0.00	N/A	0.00	0.75	1.00	1.00
Allowance	0.75	0.50	0.75	0.50	0.75	0.50	1.50	1.75	1.75
Abandonment for failure to respond	0.75	0.50	0.75	0.50	0.75	0.50	N/A	N/A	N/A
RCE Disposal Credit	N/A	0.50	N/A	0.50	N/A	0.50	N/A	N/A	N/A
Examiner's Answer, Interference, SIR	0.75	0.50	0.75	0.50	0.75	0.50	1.50	1.75	1.75
Interview Summary	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Rule 1.05 Request	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-compliant and Non-responsive notices	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

* This count value applies to 1) any RCE FAOM which exceeds the ceiling control days set forth in the Docket Management element of this PAP; 2) in the first quarter of the fiscal year, the first three non-ceiling RCE FAOMs for which credit is received; and 3) in the second, third, and fourth quarters of the fiscal year, the first four non-ceiling RCE FAOMs for which credit is received.

First Actions on the Merits shall not include first action restriction requirements. However, an examiner will be assigned an appropriate amount of non-examining time for drafting all restriction requirements which do not include an action on the merits and are in compliance with current Office policy.

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Item 1. Performance Element and Objective (Identify as Critical or Non-critical, and if it being tracked at the department level)

☒ **Critical** ☐ Non-Critical ☐ Management-by-Objectives (MBO)

Element: **II. Quality**

Objective To formulate or recommend appropriate action in the examination of patent applications.

Weighting Factor: (Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100.
Enter Weight for this element in the adjacent box.)

35

Item 2. Major Activities (Identify activities or results that need to be accomplished in support of the performance element.)

With no preliminary instructions, the examiner formulates or recommends appropriate action with respect to major activities 1-9 as set forth in Table 2. After preliminary instructions, the examiner formulates or recommends appropriate action with respect to major activities 10-13 as set forth in Table 2.

The examiner submits all Office actions in final form. The examiner receives appropriate credit for all non-final actions upon submission.

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The examiner will be assigned a rating using the criteria set forth below with respect to the major activities for which the examiner is responsible based on the work product submitted in final form which has been credited for the period under consideration.

Table 2 Quality Major Activities	Activity Level	Error Category	Evaluation Level									
			GS 5	GS 7	GS 9	GS 11	GS 12	GS 13	GS 13/ 14 PSA	GS 14 FSA	GS 15	
1. checking applications for (a) compliance with formal requirements of patent statutes and rules and (b) technological accuracy	Basic	❶	✓	✓	✓	✓	✓	✓	✓	✓	✓	
2. treating disclosure statements and claims of priority	Basic	❶	✓	✓	✓	✓	✓	✓	✓	✓	✓	
3. analyzing disclosure and claims for compliance with 35 USC 112	Basic	❷		✓	✓	✓	✓	✓	✓	✓	✓	
4. planning field of search	Basic	❶		✓	✓	✓	✓	✓	✓	✓	✓	
5. conducting search	Basic	❶	✓	✓	✓	✓	✓	✓	✓	✓	✓	
6. making proper rejections under 35 USC 102 and 103 with supporting rationale, or determining how claim(s) distinguish over the prior art	Basic	❷		✓	✓	✓	✓	✓	✓	✓	✓	
7. determining whether amendment introduces new matter	Advanced	❷		✓	✓	✓	✓	✓	✓	✓	✓	
8. appropriately formulating restriction requirements, where application could be restricted	Advanced	❶		✓	✓	✓	✓	✓	✓	✓	✓	
9. determining whether claimed invention is in compliance with 35 USC 101	Advanced	❷		✓	✓	✓	✓	✓	✓	✓	✓	
10. evaluating/applying case law as necessary;	Legal	*		✓	✓				✓	✓	✓	
11. determining where appropriate line of patentable distinction is maintained between applications and/or patents;	Legal	❶		✓	✓				✓	✓	✓	
12. evaluating sufficiency of affidavits/ declarations;	Legal	*						✓	✓	✓	✓	
13. evaluating sufficiency of reissue oath/declaration;	Legal	❶						✓	✓	✓	✓	
14. promoting compact prosecution by including all reasonable grounds of rejections, objections, and formal requirements; (M.P.E.P. 707.07(g), etc.);	Legal	❶								✓	✓	✓
15. making the record, taken as a whole, reasonably clear and complete	Legal	❶								✓	✓	✓
16. properly treating all matters of substance in applicant's response	Legal	❶								✓	✓	✓
17. formulating and independently signing final determinations of patentability (final rejections, allowance, examiner answers and advisory actions)	Legal	*									✓	✓
18. properly closing prosecution: makes no premature final rejection	Legal	❷									✓	✓
19. properly rejecting all rejectable claims in a final rejection; properly allowing all claims in an allowance	Legal	❸									✓	✓

*Errors for these items will be charged under another major activity.

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Item 3. Criteria for Evaluation (Use generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.)

Clear error under this element will be deemed to have occurred where the examiner's office action(s) or office communication(s):

1. does not reasonably comply with the major activities set forth in Table 2, and
2. could not have been permitted at the time and under the circumstances that the action was taken, and
3. is not an honest and legitimate difference of opinion as to what action should have been taken. If the action taken by the examiner is reasonable and the action preferred by the SPE is reasonable, this constitutes an honest and legitimate difference of opinion and the action taken by the examiner is free of clear error.

The examiner will be assigned a rating using the criteria set forth below with respect to the major activities for which the examiner is responsible (see Table 2) based on the work product submitted in final form which has been credited for the period under consideration.

The examiner shall be assigned a rating with respect to the quality of examination in 2 categories.

Category 1 errors may be charged after several occurrences of the same error when individual mentoring and training has failed to eliminate the problem. After commission of a category 1 error the Agency may rely upon mentoring and training provided during the previous and current fiscal years.

Category 2 errors may be charged after a single occurrence.

In a single action:

- Multiple errors in a single category will be charged as one error.
- If an error can be held in more than one category, it will be charged as an error in the highest category.
- Both a Category 1 and a Category 2 error may be charged in the same action if they are unrelated.

The maximum error rate will be a combined score based on each of the two factors listed below weighted equally:

Category 1 Errors (CAT 1)

All Actions

Category 2 Errors (CAT 2)

All Actions

Combined Error Score = $\frac{\text{CAT 1} + \text{CAT 2}}{2}$

However, if the examiner's error rate in any category is greater than or equal to 7.50%, the overall rating for the element shall be unacceptable.

Outstanding - The error rate is 0% - 4.49%. Except for rare occurrences, the examiner complies with indicia 1 and 2 of the "Indicia of Outstanding or Commendable Performance" as identified below.

Commendable - The error rate is 4.50% - 5.49%. In substantially all actions the examiner complies with indicia 1 and 2 of the "Indicia of Outstanding or Commendable Performance" as identified below.

Fully Successful - The error rate is 5.50% - 6.49%.

Marginal* - The error rate is 6.50% - 7.49%.

Unacceptable - The error rate is greater than or equal to 7.50%.

*Note: Continued or repetitive performance at this level adversely impacts upon the efficiency of the service under this performance element.

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Truncation Rule: Truncate to the second decimal. For example, an error rate of 5.49X = 5.49.

Indicia of Outstanding and Commendable Performance

1. The examiners' statements of rejection, objection, and response to arguments clearly and concisely present the positions taken or recommended in the resulting Office actions including a thorough substantive explanation to convey those positions to the applicant.
2. The Office actions as well as the file record clearly indicate that the examiner fully complies with the principles of compact prosecution. Note the principle of compact prosecution comprises conducting an initial search which is as complete as possible including consultation with an expert in the art where the examiner lacks such expertise; placing art of record with meets both the concept and the wording of the claims as well as other art which is pertinent to significant though unclaimed features of the disclosed invention; and issuing a first Office action which clearly explains the examiner's position on each essential issue in such detail that absent some unexpected consideration the next Office action may be made final.

Note: No rating shall be reduced more than one level (i.e., Outstanding to Commendable or Commendable to Fully Successful) based upon the determination that the examiner did not meet the indicia above.

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SECTION 1 - PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORDName _____ Date _____ Sheet No. 7 of 11**Item 1. Performance Element and Objective** (Identify as Critical or Non-critical, and if it is being tracked at the department level.)☒ **Critical** ☐ Non-Critical ☐ Management-by-Objectives (MBO)Element: **III. Docket Management (DM)**

Objective: To conduct examining activities within prescribed timeframes.

Weighting Factor: (Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100.)

Enter Weight for this element in the adjacent box:

20

Item 2. Major Activities (Identify activities or results that need to be accomplished in support of the performance element.)

Except where the SPE, Director, or other appropriate authority has waived, excused, or directed otherwise, the examiner:

1) handles all applications and proceedings awaiting action in accordance with the time period or Special handling instructions prescribed by current Office policy; and

2) forwards all work for processing and/or handling promptly or in accordance with prescribed time period.

See Table 3 below for specific categories and time periods:

TABLE 3			
Cat.	Component (Action Types)	Expected Average Days	Ceiling Control (Days)
1	Amendments response to non-final OA, Appeal Briefs	56	84 ¹
2	Special New: e.g. PPH, Accelerated Examination, Petitions to Make Special, Track 1, PCT, Reexam, Reissues, etc.	14	28
	Special Amended: e.g. PPH, Accelerated Examination, Petitions to Make Special, Board Decisions/Remands	14	28
3	New²: Regular New, Continuations in Part (CIPs), Continuations, Divisionals, RCEs	28	56
4	Expedited: e.g. After Finals, Responses under 37 CFR 1.312, PUBs Cases (Printer Rushes)	14	28
5	Returns (Returned by TSS & Reviewer)	14	28

¹ When an amendment exceeds the 84 day ceiling a -100% score (equivalent to 168 days) will be recorded for the application.² In this category additional cases will be identified so the examiner can work ahead provided the oldest case in the component is completed in the pay period.

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Item 3. Criteria for Evaluation (Use generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.)

Evaluation of this element will be based on an overall document management score determined as set forth below. Based on that score, an examiner shall be assigned a rating for this element as follows:

110% or above	Outstanding
103% - 109%	Commendable
95% - 102%	Fully Successful
88% - 94%	Marginal*
below 88%	Unacceptable

*Continued or repetitive performance at this level adversely impacts upon the efficiency of the service under this performance element.

All percentages shall be rounded to the nearest whole number (i.e., 109.49% rounds to 109% and 109.50% rounds to 110%.)

However, the examiner will not be held responsible for an application that is not ready for examination.

Docket Management pauses will be available in the following instances. Full details of the requirements and operation of each type of pause are found in the PAP Guidelines.

1. 5 Day Pause: applications in categories 2, 4, and 5 which are less than the expected average days will be paused for absences of ≥ 5 consecutive days.
2. FMLA-type Pause: applications in all categories will be paused for 21 or more days of continuous absence for reasons that would qualify under FMLA or sick leave (excludes vacations).
3. Vacation Pause: applications in all categories which are less than the expected average days will be paused for 28 or more days of continuous absence.
4. Combined Pause: applications in all categories which are less than the expected average days will be paused for 28 or more days of continuous absence which is a combination of FMLA-type absence and vacation absence.
5. Military Pause: For those on military leave, all clocks will be paused for the duration of the absence.
6. Detail Pause: for absence due to a detail of 50% or more.

Examiners planning vacations and other absences may work ahead on new case components in Category 3 of this element. If the examiner completes the oldest case as marked during the pay period the examiner may also submit other cases marked with an asterisk in the same component and receive a "0" day for those cases.

As set forth in detail in the DM section of the PAP Guidelines, patent applications that exceed the ceiling control days will be assigned using a Docket Management Plan (DMP). A DMP will be in effect and will remain in effect whenever one or more applications has exceeded the ceiling control days. Under a DMP, on a biweekly basis and in accordance with the PAP Guidelines, a supervisor will assign a number of ceiling-exceeded cases which must be posted for credit for that biweek. Failure to post for credit for the assigned biweek will result in entry of a score in the component and composite DM scores for that biweek. The score entered will escalate after two failures to post for credit. The day scores for each category of application are shown in Table 4.

TABLE 4							
			Charge to Score at end of PP				
Category	Reaches Ceiling	While on Ceiling Status	DMP - PP1 (Days)	DMP - PP2 (Days)	DMP - PP3 (Days)	DMP - PP4 (Days)	DMP \geq PP5
1	84 Days	Holding - No Clock	112	112	140	154	N+14 Days
2	28 Days	Holding - No Clock	28	28	70	84	N+14 Days
3	56 Days	Holding - No Clock	56	56	98	112	N+14 Days
4	28 Days	Holding - No Clock	28	28	70	84	N+14 Days
5	28 Days	Holding - No Clock	28	28	70	84	N+14 Days

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Calculating Docket Management Composite Score:

The docket management element is based on the actual average number of days between an action being placed on an examiner's docket (See Table 5 for start dates.) until an action is posted for credit, or the ceiling control days are exceeded. For all components other than Category 1, when an application exceeds the ceiling control days, a score equal to the Ceiling Control days is entered for the calculation of the actual average. For Category 1, a ceiling exceeded score of 168 days is entered for calculation of the actual average. For category 2, some clocks may reset if there are not enough examining hours in the biweek.

TABLE 5

Cat.	Component (Action Types)	Clock Start Dates
1	Amendments	Start of the biweek after the application is placed on examiner's docket
2	Special New	Start of the biweek after the previous application is completed or exceeds ceiling
	Special Amended	Start of the biweek after the previous application is completed or exceeds ceiling
3	New	Start of the biweek after the previous application is completed or exceeds ceiling
4	Expedited	Day after the application is placed on the examiner's docket
5	Returns	Day after the application is returned to the examiner

The actual average number of days for a given component (application type) is then compared to the expected average days for that component. There are 6 distinct components, with expected average days ranging from 14 to 56 days. For each component, a score is calculated using the formula $\left(\frac{wf_0 - wf_1}{wf_0} + 1\right) * 100$, where wf_0 represents expected average days for the component, and wf_1 represents the actual average days for the component. The component scores are weighted based on the number of actions in each component to form a contributing score for that component. The total docket management score is the sum of each of the contributing scores as illustrated in the table below. The TSS Returns portion of the Returns component score is capped at 15% of the overall DM score for examiners with permanent Full Signatory Authority as of October 1st, and 30% for all other examiners.

Cat.	Component (Action Types)	Expected Average Days wf_0	Number of Cases n_o	Average Days wf_1	Component Score $\left(\frac{wf_0 - wf_1}{wf_0} + 1\right) * 100$ CS_1	Contributing Score $(n_o / \text{Sum}(n_o)) * CS_1$
1	Amendments in response to non-final OA, Appeal Briefs	56	100	24	157.1%	66.9%
2	Special New e.g. PPH, Accelerated Examination, Petitions to Make Special, Track 1, PCT, Reexam, Reissues, etc.	14	12	12	114.3%	5.8%
	Special Amended: e.g. PPH, Acceleration Examination, Petitions to Make Special, Board Decisions/Remarks	14	10	12	114.3%	4.9%
3	New: Regular New, Continuations, Continuations in Part (CIPs), Divisionals, RCEs	28	52	14	150.0%	33.2%
4	Expedited: e.g. After Finals, Responses under 37 CFR 1.312, PUBs Cases (Printer Rushes)	14	57	8	142.9%	34.7%
5	Returns (Returned by TSS & Reviewer)	14	4	8	142.9% (110%)	1.9%
			Sum(n_o) = 235			
						Overall % Score 147.4%

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Item 1. Performance Element and Objective (Identify as Critical or Non-critical, and if it is being tracked at the department level.)

☐ Critical ☒ **Non-Critical** ☐ Management-by-Objectives (MBO)

Element: **IV. Stakeholder Interaction**

Objective: To provide appropriate service to stakeholders.

Weighting Factor: (Weights reflect the amount of time devoted to accomplishing the element and/or its importance. Weight for performance plans must total 100.)
Enter Weight for this element in the adjacent box:

10

Item 2. Major Activities (Identify activities or results that need to be accomplished in support of the performance element.)

1. Treat external stakeholders with courtesy and professionalism by:
 - a. Returning phone calls from external stakeholders, generally in one business day.
 - b. Reviewing email messages generally at least once every workday, and responding, if necessary, by any appropriate means.
 - c. Providing normal schedule information via voice mail if working other than a Monday through Friday schedule.
 - d. Providing voice mail notice of extended absences of three or more business days.
 - e. Directing external stakeholders to appropriate office or person, in accordance with a list provided or posted by Management.
 - f. Conducting all interviews and/or other contacts with external stakeholders as scheduled with adequate preparation, and in a courteous manner. Further, no interview and/or other contact is arbitrarily or capriciously refused by the examiner.
 - g. Displaying proper decorum in official communications (e.g., Office action or interview summary) to external stakeholders.
2. Providing search consultation and other assistance to the public and peers.

Item 3. Criteria for Evaluation (Use generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.)

Ratings will be based on demonstrated behavior of the following criteria:

Outstanding - All major activities identified are routinely performed in a timely and courteous manner and, except for rare exceptions, the employee demonstrates all of the identified indicia.

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Commendable - All major activities identified are routinely performed in a timely and courteous manner and the employee demonstrates all of the identified indicia in substantially all circumstances.

Indicia:

- Routinely uses interview practice to facilitate compact prosecution
- Is accessible and responsive regardless of physical location
- Provides appropriate information to address stakeholder inquiries
- Responds to internal stakeholders in a timely manner
- Responds appropriately to requests for personal interviews in a timely manner
- Is always well prepared for interviews

Fully Successful - All major activities identified are normally performed in a timely and courteous manner.

Marginal - Demonstrates some contribution to the element. However, a significant number of documented deficiencies in at least one of the major activities have been identified to the examiner.

Unacceptable - Performance is not adequate for the position, failing to meet the Marginal level. Numerous instances of documented deficiency in at least one of the major activities have been identified to the examiner.

"Business Day" - shall refer to each Monday through Friday except Federal holidays. Business hours shall run from 8:30 A.M. to 5:00 P.M. Eastern Time.

"Work Day" - is defined as a normal Monday through Friday and when the examiner is working for a substantial portion of the day. Such excludes holidays, days in which adjusted work dismissal occurs, day in which "the employees is not expected to work" (or Agency is closed), and days in which employees are excused from duty early.

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I. Production

Name:

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved)

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (support rating in space below)

5- Outstanding 4- Commendable 3- Fully Successful 2- Marginal 1- Unacceptable

Enter Rating
1-5 in adjacent
block

Item 5.a. Approving/Appointing Authority Comments and Signature (Required only if approving/appointing authority changes rating official's element rating in Item 5.)

Approving/Appointing Authority Signature

Date

II. Quality**Name:**

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved)

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (support rating in space below)

5- Outstanding 4- Commendable 3- Fully Successful 2- Marginal 1- Unacceptable

Enter Rating
1-5 in adjacent
block

Item 5.a. Approving/Appointing Authority Comments and Signature (Required only if approving/appointing authority changes rating official's element rating in Item 5.)

Approving/Appointing Authority Signature

Date

III. Docket Management

Name:

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved)

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (support rating in space below)

5- Outstanding 4- Commendable 3- Fully Successful 2- Marginal 1- Unacceptable

Enter Rating
1-5 in adjacent
block

Item 5.a. Approving/Appointing Authority Comments and Signature (Required only if approving/appointing authority changes rating official's element rating in Item 5.)

Approving/Appointing Authority Signature

Date

IV. Stakeholder Interaction

Name:

Item 4. Progress Reviews (Indicate progress toward accomplishing this element, the need for any adjustments to the plan, or areas where performance needs to be improved)

Employee's Initials	Date	Employee's Initials	Date
Supervisor's Initials	Date	Supervisor's Initials	Date

Item 5. Element Rating & Justification (support rating in space below)

5- Outstanding 4- Commendable 3- Fully Successful 2- Marginal 1- Unacceptable

Enter Rating
1-5 in adjacent
block

Item 5.a. Approving/Appointing Authority Comments and Signature (Required only if approving/appointing authority changes rating official's element rating in Item 5.)

Approving/Appointing Authority Signature

Date

SECTION II - PERFORMANCE SUMMARY AND RATING

Name: _____

ITEM 1. Instructions

1. List each element in the performance plan; indicate whether it is critical/non-critical and what weight has been assigned to it.
2. Assign a rating level for each element: (5) Outstanding (4) Commendable (3) Fully Successful (2) Marginal/Minimally Satisfactory (1) Unacceptable/Unsatisfactory (SES)
3. Score each element by multiplying the weight by the rating level.
4. After each element has been scored, compute the total score by summing all individual scores. Total score can range from 100 to 500.

Performance Element	Critical or Non-critical (C or NC)	MBO	Individual Weights (Sum must total 100)	Element Rating (1-5)	Score
I. Production	C		35%	0	0
II. Quality	C		35%	0	0
III. Docket Management	C		20%	0	0
IV. Stakeholder Interaction	NC		10%	0	0
			100%	TOTAL SCORE	0

For SES: Turn to reverse side and continue with Item 3.

ITEM 2. PERFORMANCE RATING

(Based on total score *except that if any critical element is less than fully successful the rating can be no higher than the lowest critical element rating*)

☐ Outstanding
(460-500)

☐ Commendable
(380-459)

☐ Fully Successful
(290-379)

☐ Marginal
(200-289)

☐ Unacceptable
(100-199)

Rating Official's Signature	Title	Date:
Approving Official's Signature	Title	Date:
Employee's Signature (Indicates appraisal meeting held)	Employee Comments Attached <input type="checkbox"/> Yes <input type="checkbox"/> No	Date:

Section III. - PERFORMANCE RECOGNITION (General Workforce only)

☐ Performance Award: \$ _____ (_____ %) **For performance awards:** Has employee been promoted during the appraisal cycle? ☐ Yes ☐ No

☐ QSI (Outstanding rating required) Appropriation No: _____

Rating Official's Signature	Title	Date:
Approving Official's Signature	Title	Date:
Final Approving Authority's Signature		Date:
Payment Authorized by Personnel Office		Date: