

Bicoastal Biotechnology/Chemical/Pharmaceutical Customer Partnership Meeting

RCE Progress Update



Daniel Sullivan

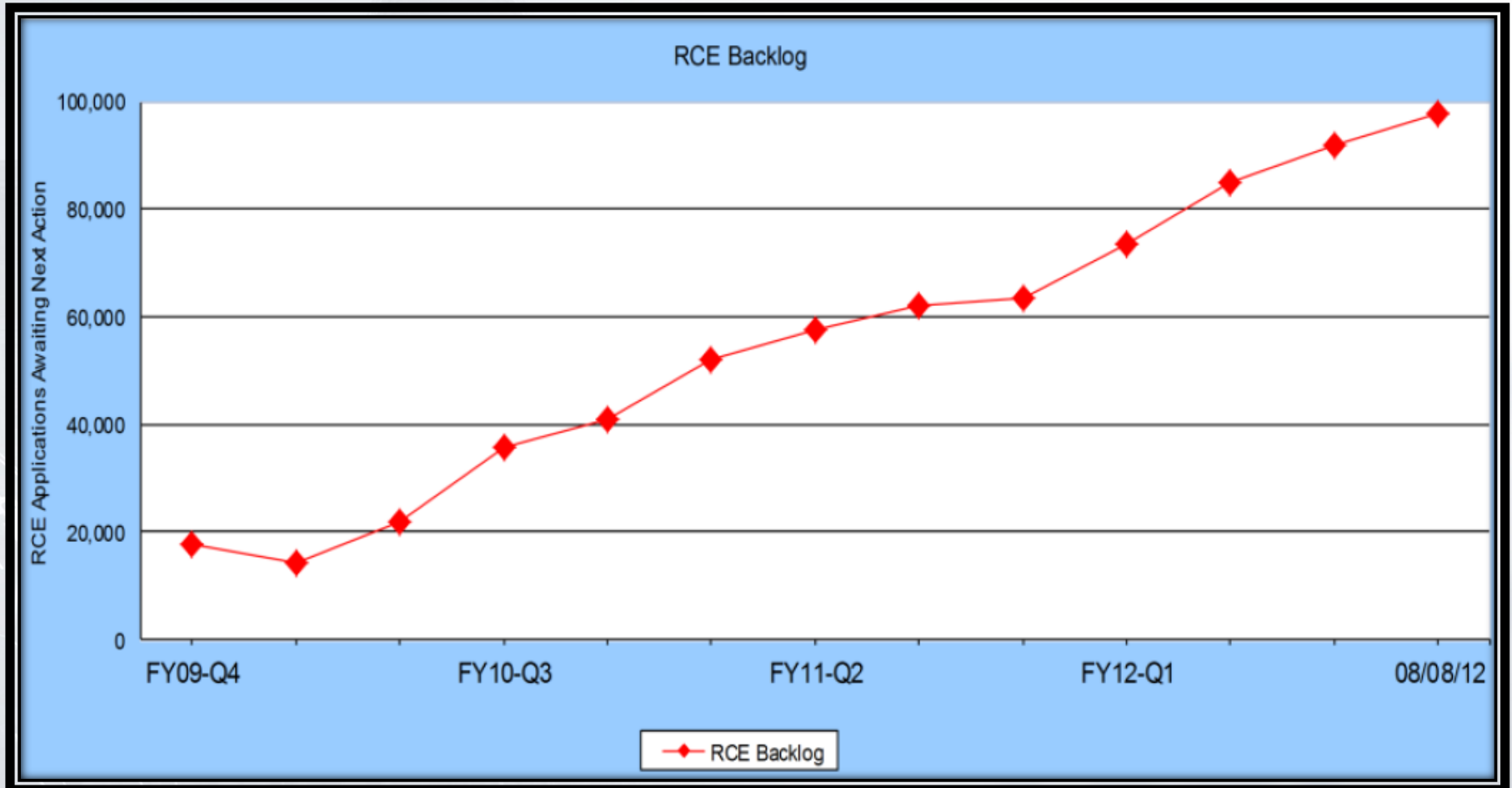
Director, TC1600

September 17, 2014



RCE Backlog

FY 2009-2012 (through August 8, 2012)





Reducing RCE Backlog

New Pilot Programs
(AFCP, QPIDS)

RCE
Leveling Plan

RCE
Outreach

- **RCE leveling plan**
 - Reduce existing backlog
- **Pilot programs (AFCP, QPIDS)**
 - Reduce some of the need for RCEs
- **RCE Outreach**
 - Identify reasons for filing RCE (e.g. drivers)
 - 3 outcomes
 - Identify new programs
 - Recommended Practices
 - Program changes



RCE Outreach Methodology Review

- Conducted a series of roundtables and focus sessions across the country in partnership with PPAC to gather input from the public to better understand root causes
- Gathered public comments from online crowd-sourcing, FR Notice as well as an online (IDS) survey
- Analyzed comments and identified major themes
- Set up teams of directors to address the major themes



RCE Outreach Methodology Review

- One team was tasked with addressing the current inventory of RCEs (backlog reduction)
- Other teams continue to work on approaches to curb the need for some future RCE filings
 - Improve external education of current programs and pilots
 - Improve internal education of examiners & SPEs
 - Explore modification of the rules governing IDS submissions
 - Better leveraging of 37 CFR 1.116 practice



Leveling Plan to Address Current RCE Inventory/Backlog

- The team devised a 2-phased approach designed to reduce the RCE inventory
 - The first phase featured a temporary increase in production credit for RCEs acted upon for the last two quarters of FY 2013



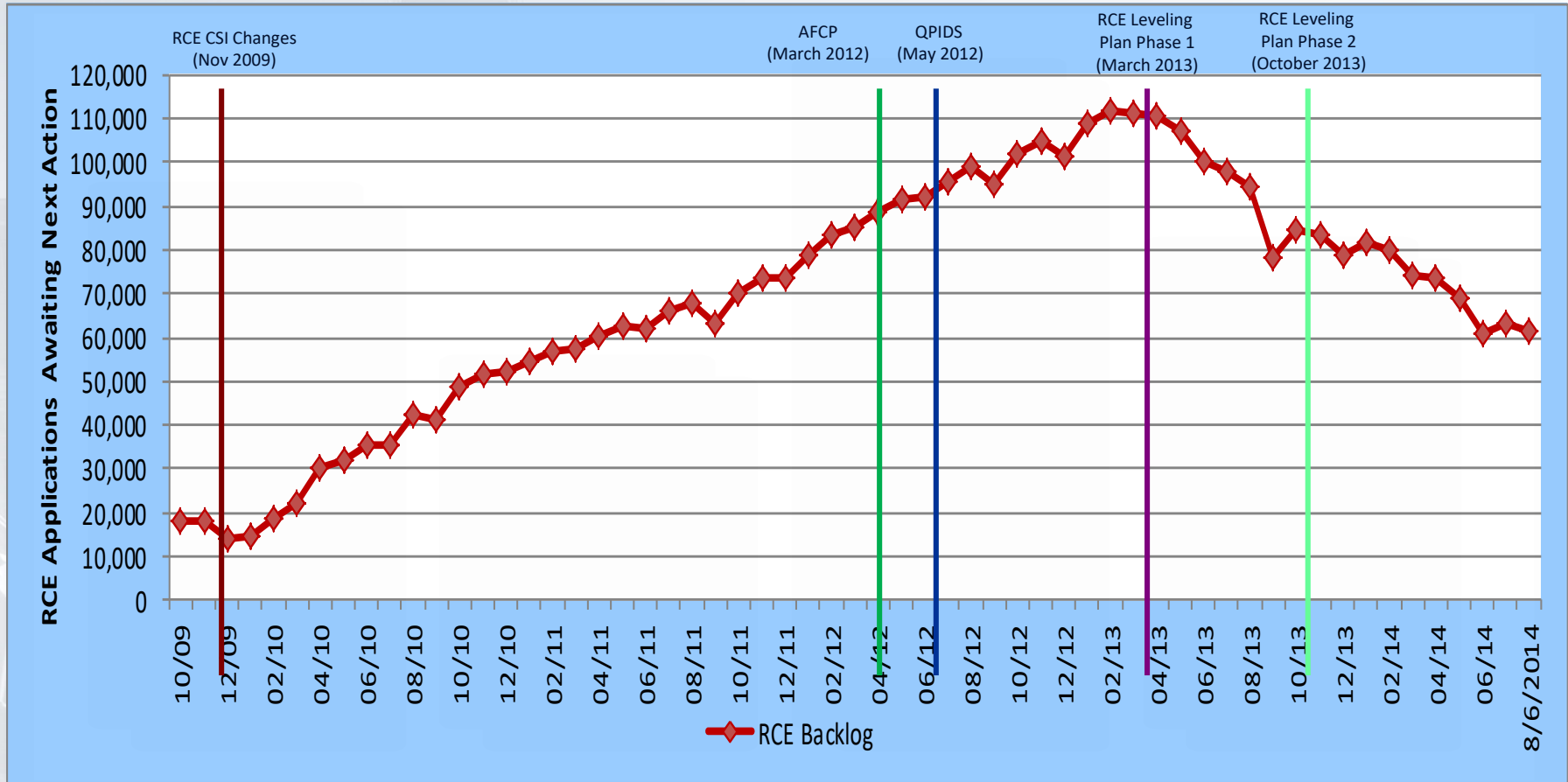
Leveling Plan to Address Current RCE Inventory/Backlog

- The team devised a 2-phased approach designed to reduce the RCE inventory
 - The second, longer term approach which was implemented October 1, 2013 features:
 - A reorganization of new application docketets
 - A modification the workflow for the RCEs that changed the make up of applications available for examiner processing as well as the workflow credit received
 - A modification in production credit which incentivizes earlier action on RCEs



RCE Backlog

FY 2010 – FY 2014 (through August 6)



61,484 as of August 6, 2014.

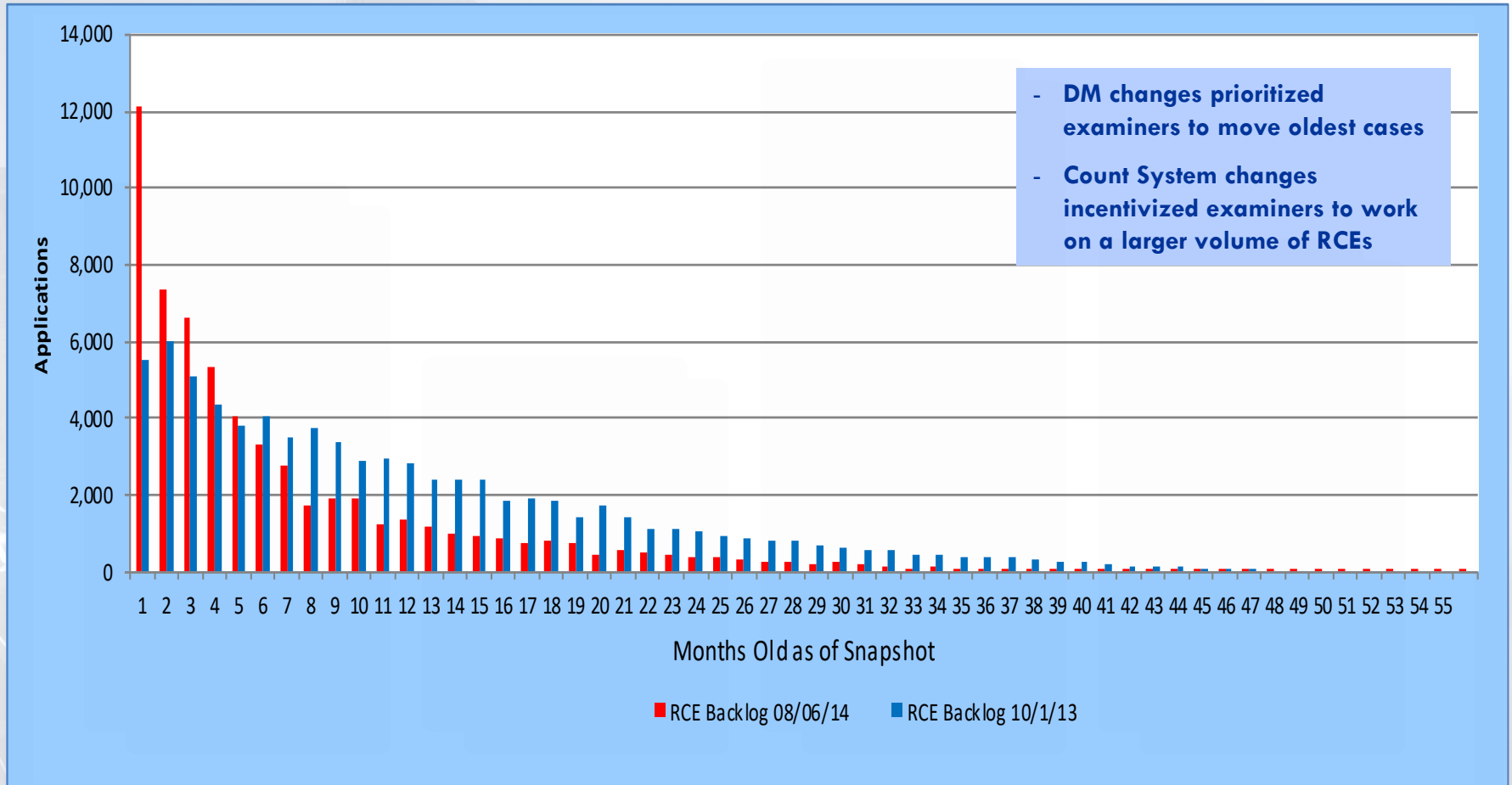


Results

- The restructured workflow appropriately allocated examination resources according to docket inventories
- The backlog of RCE applications awaiting first action has been reduced from about 110,000 to about 60,000 since implementation of the Leveling Plan. The backlog has been reduced by about 25,000 applications since October 1, 2013



Distribution of RCE Backlog by Age as of August 6, 2014 Vs. October 1, 2013

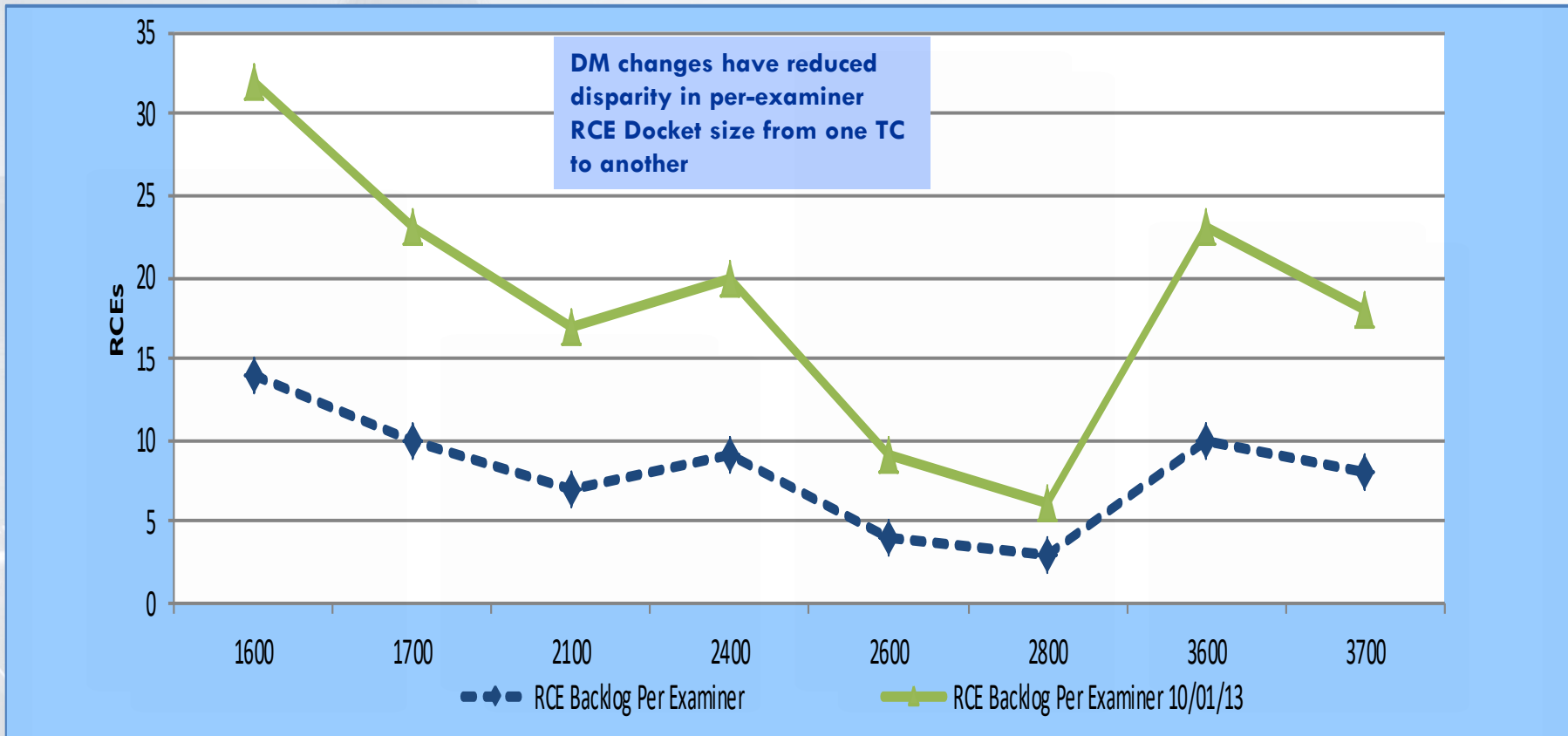


30,058 RCEs (48.9% of backlog) are over four months old as of August 6, 2014

59,702 RCEs (73.4% of backlog) were over four months old as of October 1, 2013

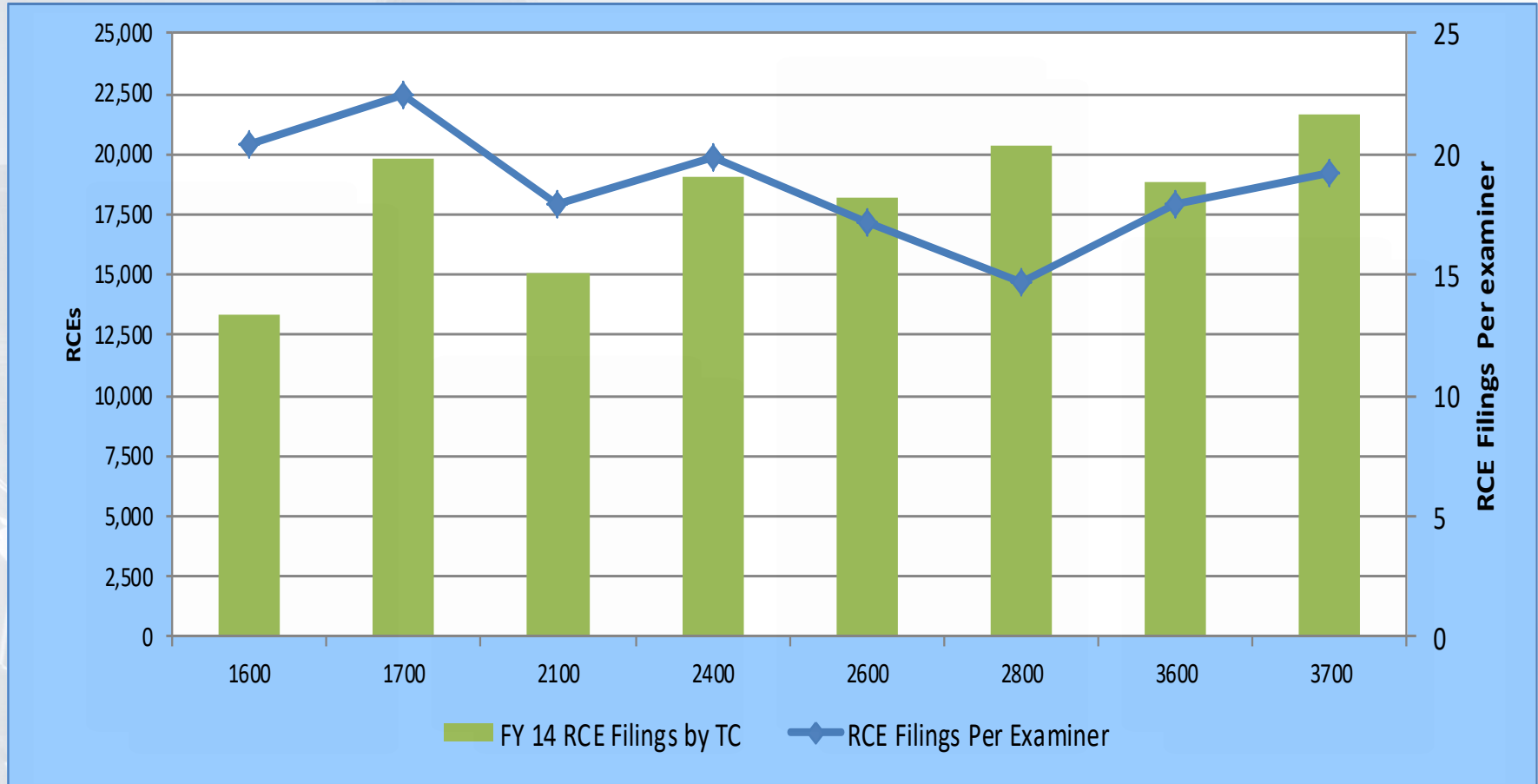


RCE Backlog Per Examiner by TC (as of October 1, 2013 and August 6, 2014)





FY 2014 RCE Filings by TC (through August 6)





APPROACHES TO REDUCE THE NEED FOR SOME RCE FILINGS

- Explored possible solutions for:
 - External education of current programs and pilots
 - Internal education of examiners & SPEs
 - Modification of the rules governing IDS submissions
 - Better leveraging of 37 CFR 1.116 practice



Increasing External Awareness: Patent Application Initiatives (PAI) Web page

Patent Application Initiatives



http://www.uspto.gov/patents/init_events/patapp-initiatives-timeline.jsp





PAI Website

PATENT APPLICATION INITIATIVES



The Centralized Patent Application Initiative website is a single online location where applicants and examiners can compare the advantages of various patent programs available to applicants during specific stages of prosecution.

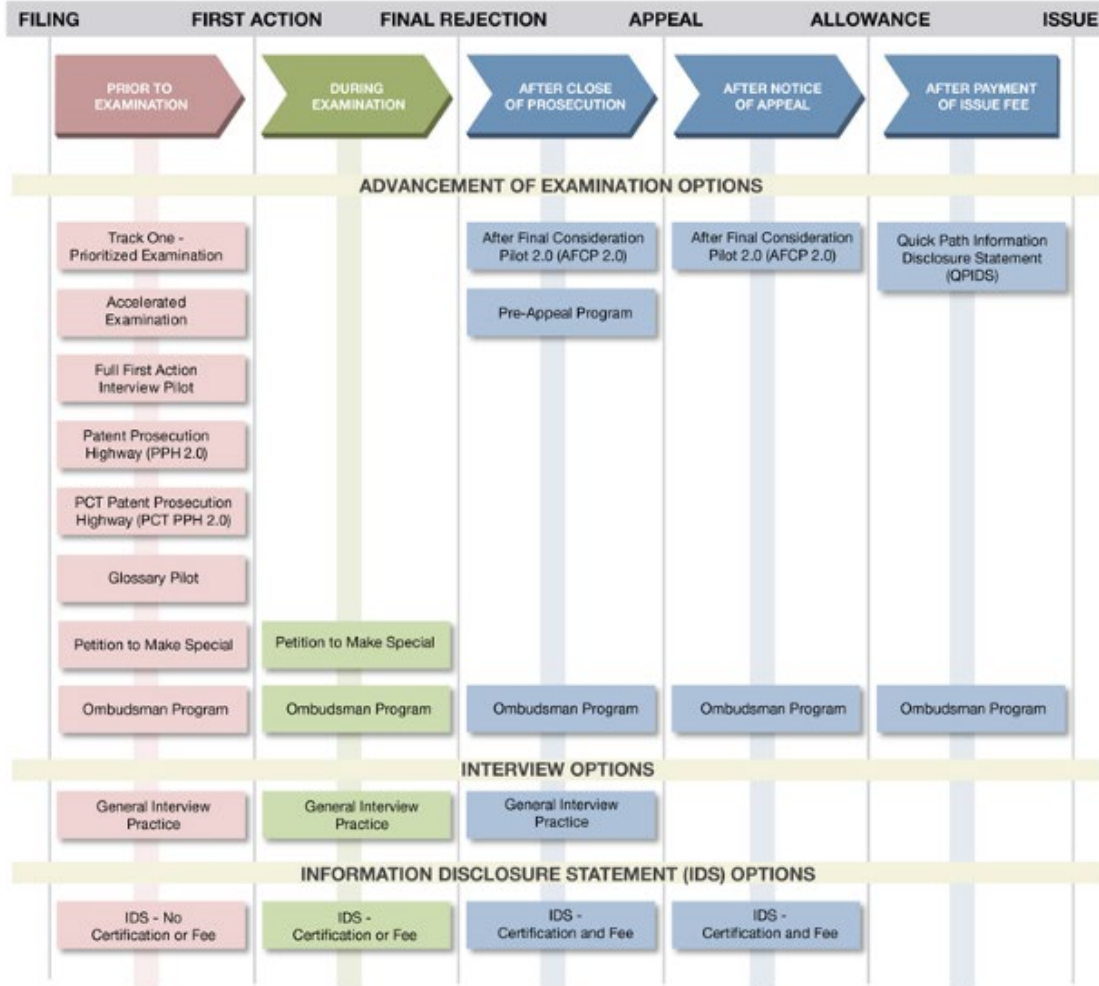
It uses both a graphic timeline as well as a matrix (grid) to provide examiners and applicants with detailed information needed to evaluate each initiative.

The PAI external website was launched September 2013 with over 35 thousand visitors. The Internal site was launched this past June to include additional examiner specific information such as initiative time codes.



PAI Website

USPTO Patent Application Initiatives Timeline





Navigate using the PAI Web site

uspto.gov search for patents | search for trademarks
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The United States Patent and Trademark Office
 an agency of the Department of Commerce

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USPTO Patent Application Initiatives - Prior to Examination

Prior To Examination
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[During Examination >>](#)

	Track One (Prioritized Examination)	Accelerated Examination	Full First Action Interview Pilot	Patent Prosecution Highway (PPH 2.0)	PCT Patent Prosecution Highway (PCT PPH 2.0)	Ombudsman Program
Description	The goal is to provide a final disposition within twelve months, on average, of prioritized status being granted. Learn about Track One statistics .	Accelerated examination provides applicant the opportunity to have final disposition of an application in 12 months. Learn about Accelerated Examination statistics .	Under this Program, an applicant is entitled to a first action interview, upon request, prior to the first Office action on the merits.	An applicant receiving a ruling from the Office of First Filing (OFF) that at least one claim in an application filed in the OFF is patentable may request that the Office of Second Filing (OSF). Learn about PPH Statistics .	European Patent Office (EPO) or the USPTO may request that the other office fast track the examination of corresponding claims in corresponding applications.	The Patents Ombudsman Program enhances the USPTO's ability to assist applicants or their representatives with issues that arise during patent application prosecution.
Program Start Date	09/2011 (AIA)	08/2006	10/2009	2006	01/2010	04/2010
Currently Active (accepting applications)	Yes	Yes	Yes, extended beyond 11/16/12	Yes	Yes	Yes
Petition / Request	Request	Petition	Request	Petition	Request	Request
Surcharge / Fee	Yes - \$4800 / \$2400 small entity; \$4000/\$2000 as of 3/19/13	Yes - \$130 ***	No	No	No	No

* if claims are in condition for allowance no interview is required
 ** if extension of time is filed, application is out of Track One
 *** no fee if statement of claimed subject matter is directed to environmental quality, energy, or countering terrorism



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Reduce RCE filings: Quick Path Information Disclosure Statement (QPIDS)

QPIDS	FY 12	FY 13	FY 14 (through July 8)	Total
Total Number filed	491	1,358	2,081	3,930
Total QPIDS completed process	327	1,171	1,889	3,387
• # Corrected NOAs mailed	280	998	1,629	2,907
• Total # of RCEs processed	47	173	260	480

FY 2012 – FY 2014 (through July 8, 2014)



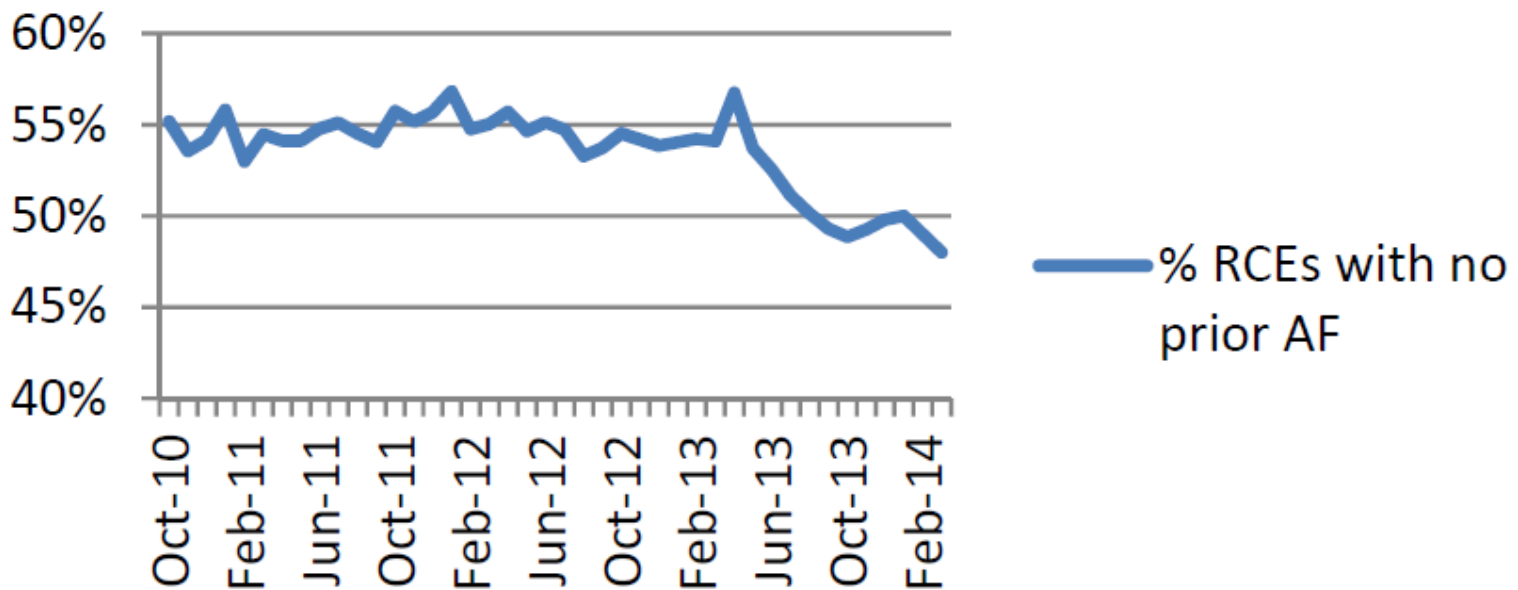
Reduce RCE Filings: After Final Consideration Pilot (AFCP 2.0)

- Features of the pilot:
 - Applicants must request entry into AFCP 2.0
 - Applicants must submit an amendment to at least one independent claim that does not broaden the scope of the independent claim
 - If the application is not allowed, the examiner must request an interview with the applicant in order to claim non-production time



AFCP

% RCEs with no prior AF





AFCP

Percentage of Subsequent Appeal Briefs in Pilot and Non-Pilot Applications		
Application Type	Number of Cases	% of Total Cases
Non-Pilot Cases With Subsequent Appeal Brief	4,864	4.7%
Pilot Cases with Subsequent Appeal Brief	615	1.5%

(May 19, 2013 – June 28, 2014)



AFCP

Preliminary External Survey Results:

- When asked if the AFCP 2.0 pilot reduced the likelihood an RCE will be filed in the application, 62% responded affirmatively
- 75% of respondents felt that the pilot is either somewhat or very effective in advancing prosecution.
- Respondents were 3 times more likely to recommend continuation of the pilot than otherwise.
- Consistency of pilot implementation and examiner familiarity with the pilot were two concerns of respondents
 - Additional training has been provided to examiners
 - Examiner/SPE access to PAI



On-going Activities and Next Steps

- Advanced training for supervisors and examiners in development
 - After final practice/compact prosecution
 - How to effectively review a case
 - How to better identify and relate allowable subject matter
 - Continuing one-on-one training for examiners with a large number of RCEs
- Claim construction training for practitioners



On-going Activities and Next Steps

- Continue to investigate avenues to provide relief for IDS submissions after allowance
- Continue to gather additional AFCP data (i.e. sampling) to gain a more comprehensive understanding of potential next steps
- Update the PAI web site as additional initiatives are launched/revised (i.e. addition of the glossary pilot)
- Administer the training currently in development and monitor RCE metrics



Questions and Comments?

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