§ 1.804 Time of making an original deposit.

(a) Whenever a biological material is specifically identified in an application for patent as filed, an original deposit thereof may be made at any time before filing the application for patent or, subject to §1.808, during pendency of the application for patent.

(b) When the original deposit is made after the effective filing date of an application for patent, the applicant must promptly submit a statement from a person in a position to corroborate the fact, stating that the biological material which is deposited is a biological material specifically identified in the application as filed.


§ 1.805 Replacement or supplement of deposit.

(a) A depositor, after receiving notice during the pendency of an application for patent, application for reissue patent or reexamination proceeding, that the depository possessing a deposit either cannot furnish samples thereof or can furnish samples thereof but the deposit has become contaminated or has lost its capability to function as described in the specification, shall notify the Office in writing, in each application for patent or patent affected. In such a case, or where the Office otherwise learns, during the pendency of an application for patent, application for reissue patent or reexamination proceeding, that the depository possessing a deposit either cannot furnish samples thereof or can furnish samples thereof but the deposit has become contaminated or has lost its capability to function as described in the specification, the need for making a replacement or supplemental deposit will be governed by the same considerations governing the need for making an original deposit under the provisions set forth in §1.802(b). A replacement or supplemental deposit made in connection with a patent, whether or not made during the pendency of an application for patent shall not be accepted unless a certificate of correction under §1.323 is requested by the patent owner which meets the terms of paragraphs (b) and (c) of this section.