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General Comment:As a practicing attorney before the USPTO, I fully understand th
e goal of the
proposed changes to 37 CFR 1.78 in attempting to control the repetitive use of
RCE's and continuing application filings. In my personal experience; however,
most of the RCE's and continuations I file are in response to FINAL rejections
issued by an Examiner based on COMPLETELY NEW prior art after an
amendment in response to the first office action overcame the initially cited pr
ior
art. Such final rejections are invariably accompanied by the dismissive boilerp
late
sentence that "Applicant's amendment necessitated the new ground of rejection".

Since the proposed new rule will require a showing by applicant to the satisfact
ion
of the USPTO why any amendment with a second or subsequent RCE or
continuation could not have been filed earlier, applicants will be unduly prejud
iced
if examiners are allowed to continue this practice of final rejections based on
new
prior art previously unseen by the applicant. Unless of course the USPTO will
accept the same one-sentence rationale as used by the examiners that "the
USPTO's final rejection necessitated the new filing". Seriously, though, I and
others in this position will have no choice under the proposed rules but to peti
tion
for review of each of these premature final rejections rather than spend our
one 'free' shot at an RCE. It's hard to see how this will provide for efficient

prosecution.