

activities. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the relocation route.

The principal measures undertaken to ensure that the barging operation will not have an adverse impact on subsistence activities are a CAA between FEX, the AEWC and the Whaling Captains Association; a Plan of Cooperation; and an operation schedule that will not permit barging operations during the traditional bowhead whaling season.

#### Proposed Authorization

NMFS proposes to issue an IHA for the harassment of marine mammals incidental to FEX conducting a barging operation for approximately 20 days from West Dock, Prudhoe Bay Alaska, through the U.S. Beaufort Sea to either Cape Simpson or Point Lonely. This proposed IHA is contingent upon incorporation of the previously mentioned mitigation, monitoring, and reporting requirements. NMFS has preliminarily determined that the proposed activity would result in the harassment of small numbers of bowhead whales, beluga whales, ringed seals, bearded seals and spotted seals; would have no more than a negligible impact on these marine mammal stocks; and would not have an unmitigable adverse impact on the availability of marine mammal stocks for subsistence uses once the Plan of Cooperation is submitted to NMFS and the previously described CAA is signed.

#### Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed IHA and the application for regulations request (see **ADDRESSES**).

Dated: May 2, 2005.

**P. Michael Payne,**

*Acting Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 05-9127 Filed 5-5-05; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 050305A]

### New England Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

#### **ACTION:** Public meeting

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee in May, 2005. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meeting will held on Wednesday, May 25, 2005, at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245-9300.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0492. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950; telephone: (978) 465-0492.

**SUPPLEMENTARY INFORMATION:** There will be a committee review of several cooperative research project final reports and the development of any associated advice for use by the Council. There will be an update on NOAA Fisheries Service plans to issue a Request for Proposals for short-term research projects; and review of the status of projects affected by the policy to use "A" days-at-sea to account for catch and associated fishing mortality during cooperative research efforts.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### **Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: May 3, 2005.

**Emily Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E5-2209 Filed 5-5-05; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

[Docket No. 2005-P-059]

### Changes to the Transitional Procedures for Limited Examination After Final Rejection in Certain Applications Filed Before June 8, 1995

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Uruguay Round Agreements Act (URAA) provided for a transitional procedure for the limited examination after final rejection in certain applications filed before June 8, 1995. The United States Patent and Trademark Office (Office) is changing its final action practice for the Office action immediately following a submission under the URAA transitional limited examination procedure. The Office is changing this final action practice to conform with the intent of the URAA and to facilitate the completion of prosecution of applications to which the URAA transitional limited examination procedure applies.

**DATES:** *Effective Date:* The change in practice in this notice applies to any submission under 37 CFR 1.129(a) filed on or after June 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** Robert W. Bahr, Senior Patent Attorney, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272-8800, by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or by facsimile to (571) 273-7735, marked to the attention of Robert W. Bahr.

**SUPPLEMENTARY INFORMATION:** The URAA provided (among other things) for the Office to prescribe regulations to provide further limited (re)examination after final rejection of applications that have been pending for two years or longer as of June 8, 1995, taking into account any reference made in such application to any earlier filed applications under 35 U.S.C. 120, 121, or 365(c). See Pub. L. 103-465, § 532(a)(2)(A), 108 Stat. 4809, 4985 (1994). The Statement of Administration Action that accompanied the URAA indicated that the purpose of this transitional procedure for the limited examination of certain applications filed before June 8, 1995, was to facilitate the completion of the prosecution of applications pending in the Office as of June 8, 1995. See *Uruguay Round Agreements Act: Statement of Administrative Action*, H.R. Doc. No.

103–316, at 1005 (1994), *reprinted in* 1994 U.S.C.C.A.N. 4040, 4298 (emphasis added). Section 102(d) of the URAA (19 U.S.C. 3512(d)) provides that “[t]he statement of administrative action approved by the Congress under section 101(a) shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements and this Act in any judicial proceeding in which a question arises concerning such interpretation or application.” *See also RHP Bearings, Ltd. v. United States*, 288 F.3d 1334, 1344 n.7 (Fed. Cir. 2002).

The Office implemented this provision in the URAA for the further limited examination of certain applications filed before June 8, 1995, in a then new 37 CFR 1.129(a). *See Changes to Implement 20-Year Patent Term and Provisional Applications*, 60 FR 20195 (Apr. 25, 1995), 1174 *Off. Gaz. Pat. Office* 15 (May 2, 1995) (final rule) (Twenty-Year Term Final Rule). With respect to the question of whether the Office action following a submission under 37 CFR 1.129(a) would be made final, the preamble to the Twenty-Year Term Final Rule indicated that: The next [Office] action following timely payment of the fee set forth in [37 CFR] 1.17(r) will be equivalent to a first action in a continuing application.

\* \* \* Thus, under [37 CFR] 1.129(a), if the first submission after final rejection was initially denied entry in the application because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised, then the next action in the application will not be made final. Likewise, if the second submission after final rejection was initially denied entry in the application because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised, then the next action in the application will not be made final.

*See Changes to Implement 20-Year Patent Term and Provisional Applications*, 60 FR at 20199, 1174 *Off. Gaz. Pat. Office* at 18. This statement of Office practice was subsequently incorporated into the *Manual of Patent Examining Procedure* (MPEP). *See* MPEP 706.07(g) (8th ed. 2001) (Rev. 2, May 2004).

It has now been a decade since the change to twenty-year patent term in the URAA. Nevertheless, there are still applications filed before June 8, 1995, pending before the Office in which a second (or both first and second) submission under 37 CFR 1.129(a) may be filed, though the Office now receives fewer than 100 submissions under 37

CFR 1.129(a) each year. This final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) is having a greater than anticipated (in 1995) effect in working against the completion of prosecution of applications filed before June 8, 1995. In addition, a review of the Statement of Administration Action reveals that the final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) (treating such Office action as the equivalent to a first action in a continuing application) was not the contemplated implementation of the transitional procedure provided for in § 532(a)(2)(A) of the URAA. *See Uruguay Round Agreements Act: Statement of Administrative Action*, H.R. Doc. No. 103–316, at 1006, *reprinted in* 1994 U.S.C.C.A.N. at 4298 (“[t]he [Office] will consider the merits of the first and second such submission, to the extent that such submissions would have been entitled to consideration if made prior to final rejection. The [Office] will modify such final rejection or allow such application, as appropriate, based upon consideration of such submissions”). Therefore, the Office is changing its final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) to bring about the completion of prosecution of applications to which the transitional procedure set forth in 37 CFR 1.129(a) applies.

Under the final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) now being adopted by the Office: The next Office action following timely filing of a submission under 37 CFR 1.129(a) (and payment of the fee set forth in 37 CFR 1.17(r)) will be equivalent to the next Office action following a reply to a non-final Office action. Under existing second Office action final practice, such an Office action on the merits shall be made final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). *See* MPEP 706.07(a). Any information disclosure statement submitted under 37 CFR 1.129(a) without the statement specified in 37 CFR 1.97(e) will be treated as though it had been filed within the time period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) (in view of

applicant’s payment of the fee set forth in 37 CFR 1.17(r)).

Under § 532(a)(2)(A) of the URAA (and the Statement of Administration Action), an applicant whose application is eligible for the transitional further limited examination procedure set forth in 37 CFR 1.129(a) is entitled to consideration of two after final submissions. Thus, if such an applicant has filed one submission under 37 CFR 1.129(a) and the application is again under a final rejection, the applicant is entitled to only one additional submission under 37 CFR 1.129(a). If such an applicant has filed two submissions under 37 CFR 1.129(a) and the application is again under a final rejection, § 532(a)(2)(A) of the URAA (and the Statement of Administration Action) and 37 CFR 1.129(a) do not entitle the applicant to consideration of any additional submissions under 37 CFR 1.129(a). The applicant is, of course, entitled to consideration of an additional submission if the submission meets the conditions set forth in 37 CFR 1.116.

The Office recognizes that its former final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) resulted in some applicants effectively receiving consideration of more than two submissions under 37 CFR 1.129(a). Section 532(a)(2)(A) of the URAA and the Statement of Administration Action, however, provide only for consideration of a first and second submission under 37 CFR 1.129(a), and do not contemplate each such submission being treated as the equivalent of a continuing application. That the Office’s former final action practice for the Office action immediately following a submission under 37 CFR 1.129(a) resulted in some applicants effectively receiving consideration of more than two submissions under 37 CFR 1.129(a) does not require the Office to continue to follow an after final practice having a result not contemplated by § 532(a)(2)(A) of the URAA and the Statement of Administration Action. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003) (that the Office has followed an improper practice in certain applications does not require the Office to follow that improper practice in all applications).

Finally, the Twenty-Year Term Final Rule also indicated that the Office action following timely payment of the fee set forth in 37 CFR 1.17(r) will be equivalent to a first action in a continuing application due to the amount of the fee specified in 37 CFR 1.17(r). *See Changes to Implement 20-*

*Year Patent Term and Provisional Applications*, 60 FR at 20199, 1174 *Off. Gaz. Pat. Office* at 18. The fee amount specified in 37 CFR 1.17(r) does not justify a continuation of the final action practice set forth in the Twenty-Year Term Final Rule because: (1) The fee amount at 37 CFR 1.17(r) is no longer equivalent to the fee required for filing an application (the filing, search, and examination fee); and (2) the applications still eligible for submissions under 37 CFR 1.129(a) tend to be more burdensome than the “usual” continuing application (*e.g.*, these applications tend to have more claims, have more continuity information, and have more related copending applications). Therefore, the fee amount specified in 37 CFR 1.17(r) is no longer a sufficient justification for treating the Office action following a submission under 37 CFR 1.129(a) as the equivalent to a first action in a continuing application.

**Paperwork Reduction Act:** This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and previously approved by OMB under OMB control number 0651-0031. The Office is not resubmitting any information collection package to OMB for its review and approval because the changes in this notice do not affect the information collection requirements associated with the information collection under OMB control number 0651-0031.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Section 706.07(g) of the *Manual of Patent Examining Procedure* will be revised in due course to reflect this change in practice.

Dated: April 20, 2005.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 05-8876 Filed 5-5-05; 8:45 am]

**BILLING CODE 3510-16-P**

## **CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

### **Information Collection; Submission for OMB Review; Comment Request**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the “Corporation”), has submitted a public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104-13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Ms. Marci Hunn, at (202) 606-5000, extension 432, (*mhunn@cns.gov*); (TTY/TDD) at (202) 606-5256 between the hours of 9 a.m. and 4 p.m. eastern standard time, Monday through Friday.

**ADDRESSES:** Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Office for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**.

- (1) By fax to: (202) 395-6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and
- (2) Electronically by e-mail to: *Katherine.T.Astrich@omb.eop.gov*.

The initial 60-day **Federal Register** notice for the Challenge Grant Application Instructions was published on February 14, 2005. This comment period ended on April 15, 2005; no comments were received.

#### **SUPPLEMENTARY INFORMATION:**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information

on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

*Type of Review:* New.

*Agency:* Corporation for National and Community Service.

*Title:* Challenge Grant Application Instructions.

*OMB Number:* None.

*Agency Number:* None.

*Affected Public:* Organizations who are interested applying for Challenge Grant funding.

*Total Respondents:* 40.

*Frequency:* On occasion.

*Average Time Per Response:* Ten (10) hours.

*Estimated Total Burden Hours:* 400 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

*Description:* The purpose of these Challenge Grants is to assist nonprofit organizations in securing previously untapped sources of private funds to build sustainable national and community service programs. Organizations receiving funds must either greatly expand services by engaging citizens in meeting community needs or offer new services through expanded citizen engagement.

The Application Instructions submitted as part of this public collection request are pertinent only to the Corporation’s online application system, eGrants. As noted in the 60-day notice published on February 14, 2005, use of the government-wide grants application system, Grants.gov, for this competition was dependent upon that system’s ability to accommodate the Corporation’s specific individualized needs. We are continuing to cooperate with Grants.gov in developing the capability to accept applications through that system. Instructions for applying through Grants.gov will be developed and submitted for approval when that system is compatible with our technical application requirements.

Dated: April 29, 2005.

**Marlene Zakai,**

*Director, Office of Grants Policy and Operation.*

[FR Doc. 05-9009 Filed 5-5-05; 8:45 am]

**BILLING CODE 6050-SS-P**