

SUPPLEMENTARY INFORMATION:**Agenda**

The Advisory Panel will review the 2024/2025 Scallop Research Set-Aside (RSA) and develop research recommendations for the notice of funding opportunity announcement (NOFO). Also on the agenda are Scallop RSA program modifications: discuss recommending administrative changes to the Scallop RSA program, including the consideration of longer-term regional survey awards. The panel will also discuss scallop specifications and receive an update on the timeline and possible measures. This action will be initiated at the June 2023 Council meeting. The panel will discuss Northern Edge: progress report and timeline for action to potentially authorize scallop fishery access to habitat management area. Other business will be discussed, if necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council 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. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465-0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 23, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-11337 Filed 5-25-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XD038]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Advisory Subpanel (HMSAS) is holding an online meeting, which is open to the public.

DATES: The online meeting will be held Wednesday, June 14, 2023, from 1 p.m. to 4:30 p.m., Pacific Time.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov) or contact him at (503) 820-2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT: Kit Dahl, Staff Officer, Pacific Council; telephone: (503) 820-2422.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to familiarize the HMSAS with relevant topics to be taken up at the June 2023 Pacific Council meeting and begin considering the contents of reports the HMSAS may wish to submit to the Council. An agenda for the HMSAS meeting will be posted on the Council's website at least one week prior to the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids

should be directed to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov; (503) 820-2412) at least 10 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 23, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-11335 Filed 5-25-23; 8:45 am]

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DEPARTMENT OF COMMERCE**United States Patent and Trademark Office**

[Docket No.: PTO-P-2023-0021]

Request for Comments on a Proposed Track Three Pilot Program With a Pre-Examination Search Option

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) seeks public comments on a proposed Track Three Pilot Program that would permit micro entity applicants to delay payment of the search fee and the examination fee for a period of 30 months from the earliest filing date claimed, under certain conditions. By lowering a barrier to intellectual property protection, the proposed Track Three Pilot Program reinforces the USPTO's commitment to providing the best and most accessible intellectual property system in the world. Under the proposed Track Three Pilot Program, micro entity applicants would need to submit a request to participate in the program when filing a nonprovisional utility or plant application, pay the basic filing fee, and satisfy other requirements, including the requirement that the application be in condition for publication to enable it to be published after the expiration of 18 months from the earliest filing date for which a benefit is sought. The USPTO is also exploring including in the Track Three Pilot Program an option that would permit micro entity applicants, under certain conditions, to obtain a pre-examination search report prior to the deadline for payment of the examination fee. The pre-examination search report would provide applicants with additional information as they consider potential commercialization and the value of their invention.

DATES: Comment Deadline: Written comments must be received on or before July 25, 2023, to ensure consideration.

ADDRESSES: For reasons of Government efficiency, comments must be submitted through the Federal eRulemaking Portal at www.regulations.gov. To submit comments via the portal, enter docket number PTO-P-2023-0021 on the homepage and click "Search." The site will provide a search results page listing all documents associated with this docket. Find a reference to this document and click on the "Comment" icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted in Adobe® portable document format (PDF) or Microsoft Word® format. Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

Visit the Federal eRulemaking Portal for additional instructions on providing comments via the portal. If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Eugenia A. Jones, Senior Legal Advisor, Office of Patent Legal Administration, at 571-272-7727; or Kristie A. Mahone, Senior Legal Advisor, Office of Patent Legal Administration, at 571-272-9016; or patent.practice@uspto.gov.

SUPPLEMENTARY INFORMATION: The USPTO seeks public comments on a proposed Track Three Pilot Program directed at lowering a barrier to intellectual property protection. The proposed Track Three Pilot Program would be limited to micro entity applicants. Micro entity applicants are typically under-resourced and often need additional time for commercialization efforts and to ascertain the value of their inventions. The USPTO envisions permitting micro entity applicants to request a 30-month time period from the earliest filing date claimed to pay the search fee and the examination fee in a nonprovisional utility or plant application, filed under 35 U.S.C. 111(a), if certain conditions are met. The USPTO is also considering including an option that would permit micro entity applicants, under certain conditions, to additionally obtain a pre-examination search report prior to the deadline for payment of the examination fee.

I. Background

In June 2010, the USPTO requested comments from the public on a proposal to provide applicants with greater

control over when their original utility or plant applications are examined and to promote work sharing between intellectual property offices. See Enhanced Examination Timing Control Initiative; Notice of Public Meeting, 75 FR 31763 (June 4, 2010), 1355 Off. Gaz. Pat. Office 323 (June 29, 2010). Specifically, the Office proposed to adopt procedures under which an applicant would be able to:

(1) request prioritized examination of an original utility or plant nonprovisional application (Track One);

(2) request a delay in docketing the application for examination by filing a request for delay in payment of the search fee, the examination fee, the claims fees, and the surcharge (if required) for a maximum period not to exceed 30 months in an original non-continuing utility or plant application, filed under 35 U.S.C. 111(a), that does not claim the benefit of a prior-filed foreign application (Track Three); or

(3) obtain processing under the current examination procedure (Track Two) by not requesting either Track One or Track Three processing.

On September 16, 2011, the Leahy-Smith America Invents Act (AIA) was enacted, and section 11(h) included provisions for prioritized examination. A week later, the USPTO amended the rules of practice to implement the prioritized examination provisions of section 11(h) of the AIA. See *Changes To Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures Under the Leahy-Smith America Invents Act*, 76 FR 59050 (Sept. 23, 2011), 1371 Off. Gaz. Pat. Office 151 (Oct. 18, 2011).

The USPTO currently has a deferred examination practice, under which any applicant (regardless of entity status) may request deferral of examination of an original utility or plant application for a period not extending beyond three years from the earliest filing date claimed under 35 U.S.C. 119, 120, 121, 365, or 386, if certain conditions are met. See 37 CFR 1.103(d). It is the USPTO's practice to not grant a request for deferral of examination under 37 CFR 1.103(d) until all required fees (including the search fee and the examination fee) have been paid and the application is complete. A request for deferral of examination under 37 CFR 1.103(d) also requires payment of a processing fee.

Furthermore, a request for deferral of examination under 37 CFR 1.103(d) may be submitted after the application has been filed, but the request will not be granted if the USPTO has issued an Office action, under 35 U.S.C. 132, or a

notice of allowance, under 35 U.S.C. 151.

The USPTO also has a practice ("missing parts" practice) that permits applications to be filed without claims, the inventor's oath or declaration, or fees being present on filing. See 37 CFR 1.53(f). Specifically, under current practice, the USPTO will send a Notice to File Missing Parts of Nonprovisional Application (Notice to File Missing Parts) if a nonprovisional application, filed under 35 U.S.C. 111(a), has been accorded a filing date but does not include:

(1) the basic filing fee (37 CFR 1.16(a) or (c));

(2) the search fee (37 CFR 1.16(k) or (m));

(3) the examination fee (37 CFR 1.16(o) or (q));

(4) at least one claim; and/or

(5) either the inventor's oath or declaration under 37 CFR 1.63 or an application data sheet in accordance with 37 CFR 1.76.

The Notice to File Missing Parts will set a time period for the applicant to submit the missing items and pay the required surcharge under 37 CFR 1.16(f) to avoid abandonment. If excess claims fees under 37 CFR 1.16(h), (i), and/or (j); an application size fee under 37 CFR 1.16(s); and/or the non-electronic filing fee under 37 CFR 1.16(t) are required and any of these fees have not been paid, the Notice to File Missing Parts will also require that these fees be paid within the period for response to the Notice to File Missing Parts. Although the rules of practice do not specify the time period for response to the Notice to File Missing Parts, the USPTO currently sets a two-month time period for that response, with extensions of time of up to five months available under 37 CFR 1.136(a).

Finally, under the Patent Cooperation Treaty (PCT), an applicant may seek patent protection in the United States, and other jurisdictions, by first filing an international application and then filing a national stage entry as to the United States as well as entry into other jurisdictions. This practice, subject to various conditions and requirements, permits a similar 30-month period for applicants to defer certain filing decisions. As is the case with the deferred examination practice and missing parts practice, this option requires payment of additional fees and the fulfillment of other requirements relative to the proposed Track Three Pilot Program.

The USPTO recognizes that under-resourced applicants may need a low-cost option with minimal requirements to allow them additional time for

commercialization efforts and to ascertain the value of their inventions. To that end, the USPTO seeks public comments on a proposed Track Three Pilot Program.

II. Summary of Proposed Track Three Pilot Program

On the filing of an application seeking benefit under the proposed Track Three Pilot Program, a micro entity applicant would be provided a 30-month (non-extendable) time period to pay the search fee and/or the examination fee if the applicant satisfies the following conditions:

(1) the applicant must submit a request to participate in the Track Three Pilot Program with the nonprovisional application on filing, by using a USPTO form that would be provided for this purpose;

(2) the nonprovisional application must be a utility or plant application filed under 35 U.S.C. 111(a) within the duration of the pilot program and be entitled to a filing date;

(3) the nonprovisional application must not claim priority to or benefit of any prior-filed application other than a prior-filed provisional application(s);

(4) the basic filing fee under 37 CFR 1.16(a) or (c) (as applicable) and any required non-electronic filing fee under 37 CFR 1.16(t) must have been paid;

(5) the search fee under 37 CFR 1.16(k) or (m) (as applicable) and/or the examination fee under 37 CFR 1.16(o) or (q) (as applicable) must not have been paid;

(6) the applicant must properly establish micro entity status under 37 CFR 1.29 in the nonprovisional application;

(7) the applicant must not have filed a nonpublication request; and

(8) the application must be in condition for publication as provided in 37 CFR 1.211(c) (including, for example, payment of any required application size fee under 37 CFR 1.16(s) and the inventor's oath or declaration or an application data sheet containing the information specified in 37 CFR 1.63(b)).

To complete the application for examination and avoid abandonment, the search fee, the examination fee, and any other required fees would be due within 30 months from the earliest filing date claimed, including any filing date of a prior provisional application that is relied upon for benefit under 35 U.S.C. 119(e).

Under 35 U.S.C. 122(b), the USPTO is required to publish the application promptly after the expiration of 18 months from the earliest filing date for which a benefit is sought (which may

only be the filing date of a prior-filed U.S. provisional application for the proposed Track Three Pilot Program), as the application may not include a nonpublication request. Therefore, as noted above, the nonprovisional application must be in condition for publication as provided in 37 CFR 1.211(c). In addition to the basic filing fee and the inventor's oath or declaration or an application data sheet containing the information specified in 37 CFR 1.63(b), the USPTO requires the following in order for the nonprovisional application to be in condition for publication:

(1) a specification in compliance with 37 CFR 1.52;

(2) an abstract in compliance with 37 CFR 1.72(b);

(3) drawings (if any) in compliance with 37 CFR 1.84;

(4) any application size fee required under 37 CFR 1.16(s);

(5) any English translation required under 37 CFR 1.52(d); and

(6) a "Sequence Listing XML" in compliance with 37 CFR 1.831–1.835 (if applicable).

If the requirements for publication are not met, the applicant would need to satisfy the publication requirements within a two-month extendable time period. The required publication of applications participating in the Track Three Pilot Program is similar to the required publication of international applications under the PCT and nonprovisional applications in which the applicant seeks deferred examination. In all three instances, the publication provides public notice of the existence of the application as well as access to the application.

The USPTO is also considering including an additional "plus" option in the Track Three Pilot Program in which, under certain conditions, the micro entity applicant could obtain a pre-examination search report prior to the deadline for payment of the examination fee. The USPTO recently added an artificial intelligence (AI) search feature as a tool for examiners (*see* New Artificial Intelligence Functionality in PE2E Search, 1504 Off. Gaz. Pat. Office 359 (Nov. 15, 2022)). Under the "plus" option, relevant references from the AI search tool would be identified and would form the basis of a preexamination search report. The pre-examination search report would provide applicants with additional information as they consider potential commercialization and the value of their invention. If the micro entity applicant chooses the "plus" option, payment of the examination fee and any other required fees except the

search fee may be delayed until the expiration of the later of:

(1) six months (non-extendable) from the date of the search report; or

(2) a period of 30 months (non-extendable) from the earlier of:

(a) the actual filing date of the application; or

(b) the filing date of the earliest provisional application for which benefit is claimed.

The publication of the application under 35 U.S.C. 122(b) will still occur promptly after the expiration of 18 months from the earliest filing date for which a benefit is sought.

The requirements for participation in the "plus" option would be identical to the basic Track Three Pilot Program requirements explained above, except that the following additional conditions must be met:

(1) the applicant must submit a request to participate in the "plus" part of the program along with payment of the search fee under 37 CFR 1.16(k) or (m) (as applicable) prior to the expiration of a specified deadline;

(2) the application may not contain more than 3 independent claims, more than 20 total claims, or any multiple dependent claims; and

(3) the claims must be drawn to a single invention.

To complete the application for examination and avoid abandonment, the examination fee and any other required fees would be due within the later of:

(1) six months (non-extendable) from the date of the search report; or

(2) a period of 30 months (non-extendable) from the earlier of:

(a) the actual filing date of the application; or

(b) the filing date of the earliest provisional application for which benefit is claimed.

The Consolidated Appropriations Act, 2023, Public Law 117–328, enacted on December 29, 2022, included the Unleashing American Innovators Act of 2022 (UAIA), containing a number of patent-related provisions. 136 Stat. 4459. Section 106 of the UAIA provides for a pre-prosecution assessment pilot program. Specifically, section 106(a) of the UAIA provides that "[n]ot later than [December 29, 2023], the Director shall establish a pilot program to assist first-time prospective patent applicants in assessing the strengths and weaknesses of a potential patent application submitted by such a prospective applicant." Section 106(b) of the UAIA provides that "[i]n developing the pilot program required under subsection (a), the Director shall establish: (1) a notification process to notify a

prospective patent applicant seeking an assessment described in that subsection that any assessment so provided may not be considered an official ruling of patentability from the Office; (2) conditions to determine eligibility for the pilot program, taking into consideration available resources; (3) reasonable limitations on the amount of time to be spent providing assistance to each individual first-time prospective patent applicant; (4) procedures for referring prospective patent applicants to legal counsel, including through the patent pro bono programs; and (5) procedures to protect the confidentiality of the information disclosed by prospective patent applicants.” The USPTO is planning to leverage the process for producing the pre-examination search report, as discussed in this notice, for the pilot program required by section 106(a) of the UAIA to assist first-time prospective patent applicants in assessing the strengths and weaknesses of their potential patent application.

III. Additional Considerations

Fees are subject to change, and the fees due in an application are the fees in effect at the time of fee payment. Therefore, if the search fee, examination fee, excess claims fees, and/or the surcharge (or any other fees) have changed after the mailing or notification date of a Notice to File Missing Parts that sets a time period to pay such fees, the applicant would be required to pay the revised fee amounts. Applicants who are considering filing under the proposed Track Three Pilot Program should consider that the fee amounts due 30 months after the application is filed may be higher than the fee amounts in effect when the application was filed.

By statute, any patent term adjustment (PTA) accrued by an applicant based on delays by the USPTO is “reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application” (“applicant delay”). See 35 U.S.C. 154(b)(2)(C)(i). Taking more than three months to respond to any Office action or notice is considered an “applicant delay.” See 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b). Thus, if an applicant replies to a Notice to File Missing Parts more than three months after the mailing of the notice, any positive PTA accrued by the applicant will be reduced by the period of time in excess of three months taken to reply to the Notice to File Missing Parts. In addition, the failure to place an application in condition for

examination (defined in 37 CFR 1.704(f)) within eight months from the date on which the application was filed under 35 U.S.C. 111(a) is also an “applicant delay” and will result in a reduction of any positive PTA accrued by the applicant. See 37 CFR 1.704(c)(13). However, if an “applicant delay” occurs under both these provisions on the same calendar day, the applicant will be assessed only one day of applicant delay (*i.e.*, no overlapping reduction). It should be noted, however, that this proposed Track Three Pilot Program would not be considered a suspension of action under 37 CFR 1.103 at the applicant’s request, and thus applicant delay would not be assessed under 37 CFR 1.704(c)(1). No change to the current regulations (including the PTA regulations) is contemplated to implement the proposed Track Three Pilot Program.

The optional pre-examination search report contemplated by the USPTO is not an action under 35 U.S.C. 132, and no reply to the pre-examination search report itself is necessary to avoid abandonment. Thus, the pre-examination search report will not toll the 14-month time period under 35 U.S.C. 154(b)(1)(A)(i), and therefore, positive PTA will accrue after expiration of the 14-month time period under 35 U.S.C. 154(b)(1)(A)(i) until an action under 35 U.S.C. 132 or 151 is mailed. However, any positive PTA accrued by the applicant will be reduced by the period of time in excess of three months taken to reply to the Notice to File Missing Parts, as well as the period of time in excess of eight months taken to place the application in condition for examination as defined in 37 CFR 1.704(f), except that the applicant will be assessed only one day of applicant delay if both of these delays occur on the same calendar day.

IV. Questions for Public Comment

The USPTO welcomes any comments from the public on the proposed program discussed in this notice. Commenters are also welcome to respond to any or all of the following questions:

1. Should the USPTO implement the proposed Track Three Pilot Program? Why or why not?
2. If the USPTO implements the proposed Track Three Pilot Program, do you or members of your organization believe that the public would use it for eligible applications?
3. If the proposed Track Three Pilot Program is used, to what extent do you or members of your organization believe the public would use the “plus” option?

4. If the proposed “plus” option in the Track Three Pilot Program is used, what information would you or members of your organization like to see in the pre-examination search report? For example, options may include a simple list of relevant references, a list of relevant references with a short explanation of why they are relevant, a PCT-style search report that identifies how references are pertinent to specific claims, or something different.

5. Would the proposed “plus” option in the Track Three Pilot Program be used if the search is performed by a USPTO artificial intelligence search tool(s) only? For example, the search report may include a list of references generated by the artificial intelligence tool(s) or may include relevant references identified by a patent examiner from the artificial intelligence search results along with some level of context ranging from a short explanation to a full PCT-style report.

6. Are there any conditions of the proposed Track Three Pilot Program that should be modified? For example, is the 30-month time period sufficient to determine whether to proceed with prosecution of the application?

7. Do the current practices discussed in this notice (*i.e.*, deferred examination under 37 CFR 1.103(d), the missing parts practice, or PCT practice) provide sufficient additional time to determine whether to pay the fees and/or proceed with prosecution of the application?

8. If an applicant participating in the proposed Track Three Pilot Program becomes aware that the application is no longer entitled to micro entity status, how should that discovery impact the status of the application in the proposed Track Three Pilot Program?

For example, should the applicant be required to promptly pay the remaining fees and thereby complete the application so it can be forwarded for examination?

Katherine K. Vidal,

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

[FR Doc. 2023–11349 Filed 5–25–23; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.