

fishery by former participants who may be precluded from fishing under Amendment 13. If necessary, the Council also could discuss issues related to Congressional action as it affects NMFS funding in 2004.

#### Thursday, January 29, 2004

The Research Steering Committee will report to the Council on refinements to its policy on incorporating the results of cooperative research results into the management process and activities planned for 2004. The Council is then scheduled to review and approve its draft Statement of Organization, Practices and Procedures. The Habitat/Marine Protected Area Committee will ask for approval of its recommendations concerning the timing and scope of Essential Fish Habitat Amendment 2. There will also be a discussion of the committee's rationale to prohibit clam dredges from habitat closed areas designated in Amendment 13 to the Northeast Multispecies FMP. The afternoon session will include a report by the NOAA Fisheries Statistics Office on a proposed rule implementing mandatory dealer electronic reporting and scheduled for publication in 2004. The meeting will conclude with a briefing on NOAA Fisheries National Bycatch Strategy and regional implementation of a plan. Any other Council business that was postponed until the close of the meeting will also be addressed at this time.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects 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 that 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 date.

Dated: December 22, 2003.

#### Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.  
[FR Doc. 03-32073 Filed 12-29-03; 8:45 am]  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 120302A]

#### Magnuson-Stevens Act Provisions; Atlantic Highly Migratory Species; Exempted Fishing and Scientific Research Permits

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

**ACTION:** Reopening of comment period.

**SUMMARY:** Due to public request for an extension of the public comment period, NMFS is reopening the comment period for the notice of intent to issue Exempted Fishing Permits (EFPs) and Scientific Research Permits (SRPs) for the collection of Atlantic highly migratory species (HMS), previously published in the **Federal Register** on December 9, 2003.

**DATES:** The deadline of written comments on research and fishing activities is January 26, 2004.

**ADDRESSES:** Send comments to Christopher Rogers, Chief, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. The EFP/SRP applications and copies of the regulations under which EFPs/SRPs are issued may also be requested from this address. Comments also may be sent via facsimile (fax) to (301)713-1917. Comments will not be accepted if submitted via e-mail or Internet.

**FOR FURTHER INFORMATION CONTACT:** Heather Stirratt or Sari Kiraly, 301-713-2347; fax: 301-713-1917.

**SUPPLEMENTARY INFORMATION:** EFPs and SRPs are requested and issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and/or the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). Regulations at 50 CFR 600.745 and 50 CFR 635.32 govern scientific research activity, exempted fishing, and exempted educational activity with respect to Atlantic HMS.

On December 9, 2003 (68 FR 68595), NMFS published a notice of intent to issue EFPs and SRPs for 2004. Due to public request, NMFS is reopening the comment period to January 26, 2004. Information regarding the issuance of EFPs and SRPs is contained in the previous notice and is not repeated here.

**Authority:** 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: December 23, 2003.

#### John H. Dunnigan,

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

[FR Doc. 03-32072 Filed 12-29-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

[Docket No. 2003-C-031]

#### Request For Comments and Notice of Round Table Meeting Regarding The Equities of Inter Partes Reexamination Proceedings

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

**ACTION:** Request for comments and notice of round table meeting.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) seeks comments from former, current and prospective participants and other interested parties on whether *inter partes* reexamination proceedings are believed to be inequitable to any of the parties in interest and, if so, what changes are suggested to remove such inequities. As a part of this effort, USPTO announces the scheduling of a round table meeting to receive views on the effectiveness and possible improvement of *inter partes* reexamination proceedings.

**DATES:** Comments must be received by February 20, 2004, to ensure consideration. Requests to participate in the round table meeting must be received by January 28, 2004. The USPTO will make reasonable efforts to balance the interests represented at the round table meeting. If it becomes necessary to limit the number of participants, preference will be given to first-in-time requests to participate. The round table meeting is tentatively scheduled for February 17, 2004, at USPTO offices in Arlington, Virginia.

**ADDRESSES:** Written comments and requests to participate in the round table meeting should be (a) addressed to the United States Patent and Trademark Office, Office of Congressional Relations, Room 902, 2121 Crystal Drive, Arlington, VA 22202, ATTN: Angie Reilly, Inter Partes Reexam; (b) faxed to Angie Reilly's attention at (703) 305-8885; or (c) sent via electronic mail to [interpartesreexam@uspto.gov](mailto:interpartesreexam@uspto.gov). The specific time and location for the round table meeting will be communicated to participants and posted on USPTO's Web site at [www.uspto.gov](http://www.uspto.gov). That notice also will

include information for persons wishing to observe the round table meeting.

**FOR FURTHER INFORMATION CONTACT:**

Angie Reilly by telephone at (703) 305-9300 or by electronic mail at [interpartesreexam@uspto.gov](mailto:interpartesreexam@uspto.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

*Ex parte* reexamination of patents, and the procedures for same, were enacted by Congress in 1980 to serve as expedited, low-cost alternatives to patent litigation in reviewing certain aspects of patent validity. Subsequent Congressional review indicated that *ex parte* reexamination of patents was being used infrequently, primarily because a third party who requested reexamination was unable to participate after initiating the reexamination proceeding. Interested parties suggested that the volume of lawsuits in district courts would be reduced if third parties were encouraged and able to use reexamination procedures that provided an opportunity to argue their case for patent invalidity at the USPTO. To address those concerns and provide such an opportunity, Congress enacted the "Optional *Inter Partes* Reexamination Procedure Act of 1999" as Subtitle F of the "American Inventors Protection Act of 1999" (Pub. L. 106-113). While the existing *ex parte* reexamination procedures remain intact, the separate optional *inter partes* reexamination procedures enacted in 1999 permit third party requesters to submit a written comment each time the patent owner files a response to the USPTO, to appeal an adverse decision of the patent examiner to the Board of Patent Appeals and Interferences (BPAI), and to participate in a patent owner's appeal to the BPAI in support of the patent examiner's rejection of claims. Third party requesters did not, however, have the ability to appeal further to the Court of Appeals for the Federal Circuit, nor to participate in the patent owner's appeal to the Court. In addition, an estoppel adverse to a third party requester (which does not exist in *ex parte* reexamination) attaches, if the requester is unsuccessful in the *inter partes* reexamination proceeding. The requester is estopped from later asserting in any civil action, or in a subsequent *inter partes* reexamination, the "invalidity/unpatentability" of any claim finally determined to be valid and patentable on any ground the third party requester raised or could have raised in the *inter partes* reexamination. (35 U.S.C. 315(c).) Also, the requester is estopped from later challenging in a civil action any "fact" determined in the

*inter partes* reexamination. (Section 4607 of the Optional *Inter Partes* Reexamination Procedure Act of 1999.)

In order to make the optional *inter partes* procedures a more attractive alternative to litigation, Congress enacted, in 2002, sections 13105 and 13106 of subtitle A of the 21st Century Department of Justice Appropriations Authorization Act (Pub. L. 107-273). Those sections (1) provide third party *inter partes* reexamination requesters with the right to appeal to the Court of Appeals for the Federal Circuit and to participate in the patent owner's appeal to the Court and (2) clarify that reexamination (both *ex parte* and *inter partes* reexamination) may be based on a patent or printed publication previously cited by or to USPTO, or considered by USPTO, as long as a substantial new question of patentability is raised. The estoppel provisions of the Optional *Inter Partes* Reexamination Procedure Act of 1999 were not, however, deleted by the Justice Appropriations Authorization Act.

To assist Congress in its continuing oversight of patent operations, Section 4606 of the "Optional *Inter Partes* Reexamination Procedure Act of 1999" includes the requirement that the USPTO submit to the Congress, within five years of the 1999 enactment, a report evaluating whether the *inter partes* reexamination proceedings established by the Act are "inequitable to any of the parties in interest." If inequity is determined to exist, the USPTO's report must then contain "recommendations for changes \* \* \* to remove such inequity."

**Request for Comments**

To aid the USPTO in compiling the required report to Congress, the USPTO requests that interested parties having comments and/or recommendations on promoting equity in *inter partes* reexamination proceedings submit same to the USPTO. It is suggested that any such input to the USPTO include responses to the following questions:

- (1) Do you qualify as, or do you represent, a small entity?
- (2) Have you been a participant, *i.e.*, a third party requester or a patent owner party, in one or more *inter partes* reexamination proceedings?
- (3) Are *inter partes* reexamination proceedings inequitable to any of the parties in interest?
- (4) What particular procedures or lack of procedures do you feel are inequitable?
- (5) What administrative action(s) should USPTO take to remove the identified inequities?

(6) What legislative/statutory action(s) should Congress take to remove the identified inequities?

Comments must be received by February 20, 2004, to ensure consideration. Such comments should be addressed as indicated above, and clearly identified as Comments in response to the **Federal Register** Notice titled "Request for comments and notice of round table meeting regarding The Equities of *Inter Partes* Reexamination Proceedings."

**Round Table Meeting**

In addition, the USPTO will conduct a round table meeting to hear views on the effectiveness and possible improvement of *inter partes* reexamination proceedings. The round table meeting is tentatively scheduled for February 17, 2004, in USPTO offices in Arlington, Virginia.

Requests to participate in the round table meeting must be received by January 28, 2004. Such requests should be addressed as indicated above, and clearly identified as requests to participate in the round table meeting. The USPTO will make reasonable efforts to balance the interests represented at the round table meeting tentatively scheduled for February 17, 2004. If it becomes necessary to limit the number of participants, preference will be given to first-in-time requests. Notice of the specific time and location for the round table meeting will be communicated to participants and posted on USPTO's Web site at [www.uspto.gov](http://www.uspto.gov). That notice also will include information for persons wishing to observe the round table meeting.

Dated: December 19, 2003.

**Jon W. Dudas,**

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

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**BILLING CODE 3510-16-P**

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**Submission for OMB Review; Comment Request**

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).