

representative and to the respective stranding network representative.

ESA

On March 18, 2005, the U.S. Air Force (USAF), Eglin AFB, requested initiation of formal consultation on all potential environmental impacts to ESA-listed species from all Eglin AFB mission activities on SRI and within the surf zone near SRI. These missions include the surf zone detonation and amphibious vehicle and weapon testing/training that are the subject of this proposed IHA. On October 12, 2005, NMFS issued a Biological Opinion, concluding that the surf zone and amphibious vehicle and weapon testing/training are unlikely to jeopardize the continued existence of species listed under the ESA that are within the jurisdiction of NMFS or destroy or adversely modify critical habitat. Eglin AFB also consulted with the FWS for the SRI programmatic program regarding ESA-listed species and critical habitat under FWS jurisdiction. On December 1, 2005, FWS issued a Biological Opinion and concluded that the proposed mission activities are not likely to adversely affect these ESA-listed species based on Eglin's commitment to incorporate measures to avoid and minimize impacts to these species.

NEPA

In March, 2005, the USAF prepared the *Santa Rosa Island Mission Utilization Plan Programmatic Environmental Assessment* (SRI Mission PEA). NMFS reviewed this PEA and determined that it satisfies, in large part, the standards under the Council on Environmental Quality's regulations and NOAA Administrative Order 216-6 for implementing the procedural provisions of the NEPA (40 CFR sec. 1508.3). On May 9, 2007, and April 4, 2008, Eglin AFB submitted additional information for consideration in re-assessing the cumulative impacts associated with the proposed issuance of this IHA. However, these analyses did not address the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions. Therefore, NMFS prepared its own supplemental EA to update the cumulative impacts analysis. A Finding of Non-Significant Impact statement is issued on July 24, 2008.

Determinations

NMFS has determined that the surf zone and amphibious vehicle and weapon testing/training that are proposed by Eglin AFB off the coast of

SRI, is unlikely to result in the mortality or injury of marine mammals (see Tables 2 and 3) and, would result in, at worst, a temporary modification in behavior by marine mammals. While behavioral modifications may be made by these species as a result of the surf zone detonation and amphibious vehicle training activities, any behavioral change is expected to have a negligible impact on the affected species or stocks. As there is no subsistence use of these marine mammal species in the action area, any behavioral change will have no impact on subsistence use. Also, given the infrequency of the testing/training missions (maximum of once per year for surf zone detonation and maximum of twice per year for amphibious assault training involving live fire), there is no potential for long-term displacement or long-lasting behavioral impacts of marine mammals within the proposed action area. In addition, the potential for temporary hearing impairment is very low and would be mitigated to the lowest level practicable through the incorporation of the mitigation measures mentioned in this document.

Authorization

NMFS has issued an IHA, pursuant to section 101(a)(5)(D), to Eglin AFB for conducting surf zone and amphibious vehicle and weapon testing/training off the coast of SRI in the northern GOM provided the previously mentioned mitigation, monitoring, and reporting requirements are implemented.

Dated: July 24, 2008.

James H. Lecky,

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

[FR Doc. E8-18136 Filed 8-6-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO-P-2008-0035]

Clarification of Patent Regulations Currently in Effect, and Revision in Applicability Date of Provisions Relating to Patent Applications Containing Patentably Indistinct Claims

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is publishing this notice to clarify which patent-related regulations are currently in effect. The USPTO is identifying the

applicability date of those regulatory provisions relating to applications containing patentably indistinct claims which are enjoined in *Tafas v. Dudas*, 530 F. Supp. 2d 786 (E.D. Va. 2008). Should the injunction be lifted, those regulations will apply only to applications filed on or after any new effective date that would be published by the USPTO in the future.

DATES: *Effective Date:* August 7, 2008.

FOR FURTHER INFORMATION CONTACT: The Office of Patent Legal Administration, by telephone at (571) 272-7704, or by e-mail at PatentPractice@uspto.gov.

SUPPLEMENTARY INFORMATION: In 2007, the United States Patent and Trademark Office (USPTO) published a final rule revising the rules of practice in patent cases in title 37 of the Code of Federal Regulations (CFR) relating to continuing applications and requests for continued examination practices, and for the examination of claims in patent applications. See *Changes to Practice for Continued Examination Filings, Patent Applications Containing Patentably Indistinct Claims, and Examination of Claims in Patent Applications*, 72 FR 46716 (Aug. 21, 2007), 1322 *Off. Gaz. Pat. Office* 76 (Sept. 11, 2007) (Claims and Continuations Final Rule).

The Claims and Continuations Final Rule amended existing 37 CFR 1.17(f), 1.26(a) and (b), 1.52(d)(2), 1.53(b) and (c)(4), 1.75(b) and (c), 1.76(b)(5), 1.78, 1.104(a)(1) and (b), 1.110, 1.114(a) and (d), 1.136(a)(1), 1.142(a), 1.145, and 1.495(g), and added new 37 CFR 1.105(a)(1)(ix), 1.114(f), (g), and (h), 1.117, 1.142(c), 1.265, and 1.704(c)(11).

With respect to 37 CFR 1.704(c)(11), the Claims and Continuations Final Rule redesignated existing 37 CFR 1.704(c)(11) as 37 CFR 1.704(c)(12) and added a new 37 CFR 1.704(c)(11).

The changes in the Claims and Continuations Final Rule were permanently enjoined by the district court in *Tafas v. Dudas*, 530 F. Supp. 2d 786 (E.D. Va. 2008). That decision is currently on appeal to the U.S. Court of Appeals for the Federal Circuit.

The provisions of 37 CFR 1.17(f), 1.26(a) and (b), 1.52(d)(2), 1.53(b) and (c)(4), 1.75(b) and (c), 1.76(b)(5), 1.78, 1.104(a)(1) and (b), 1.110, 1.114(a) and (d), 1.136(a)(1), 1.142(a), 1.145, 1.495(g), and 1.704(c)(11) in effect as of August 7, 2008 are the provisions of 37 CFR 1.17(f), 1.26(a) and (b), 1.52(d)(2), 1.53(b) and (c)(4), 1.75(b) and (c), 1.76(b)(5), 1.78, 1.104(a)(1) and (b), 1.110, 1.114(a) and (d), 1.136(a)(1), 1.142(a), 1.145, 1.495(g), and 1.704(c)(11) in effect on October 31, 2007, and may be found in the July 2007

Revision of the Code of Federal Regulations.

The provisions 37 CFR 1.105(a)(1)(ix), 1.114(f), (g), and (h), 1.117, 1.142(c), 1.265, and 1.704(c)(11) as added by the Claims and Continuations Final Rule are not in effect as of August 7, 2008.

The USPTO anticipates that it will be some time before the litigation concerning the Claims and Continuations Final Rule is finally resolved. The USPTO is concerned that some applicants may be taking preparatory action anticipating the new requirements of 37 CFR 1.78(f)(1) and (2), as added by the Claims and Continuations Final Rule, due to the possibility that the injunction by the district court in *Tafas* will be removed. The purpose of this notice is to aid applicants who might otherwise feel the need to take such preparatory actions by identifying the applicability date of the provisions of 37 CFR 1.78(f) in the event that the injunction by the district court in *Tafas* is removed. Specifically, the changes in 37 CFR 1.78(f)(1) and (f)(2) will only apply to applications filed on or after any new effective date that would be published by the USPTO after the removal of the injunction. Thus, in the event the referenced injunction is lifted, applicants will only need to comply with the identification requirements of 37 CFR 1.78(f)(1) in applications having an actual filing date on or after this new effective date. Likewise applicants will only have to identify other commonly owned applications that satisfy the conditions set forth in 37 CFR 1.78(f)(1)(i) in applications that have a filing date on or after this new effective date. Similarly, the rebuttable presumption of 37 CFR 1.78(f)(2) will only apply to applications having an actual filing date on or after the effective date. Furthermore, the rebuttable presumption will only exist with respect to an application that satisfies the conditions set forth in 37 CFR 1.78(f)(2)(i) and also has a filing date on or after this new effective date.

Dated: August 1, 2008.

Jon W. Dudas,

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

[FR Doc. E8-18224 Filed 8-6-08; 8:45 am]

BILLING CODE 3510-16-P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, August 22, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202-418-5084.

Sauntia S. Warfield,
Staff Assistant.

[FR Doc. E8-18323 Filed 8-5-08; 4:15 pm]

BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday August 8, 2008.

PLACE: 1155 21st St., NW., Washington, DC., 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202-418-5084.

Sauntia S. Warfield,
Staff Assistant.

[FR Doc. E8-18329 Filed 8-5-08; 4:15 pm]

BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday August 15, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202-418-5084.

Sauntia S. Warfield,
Staff Assistant.

[FR Doc. E8-18333 Filed 8-5-08; 4:15 pm]

BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2 p.m., Wednesday August 20, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202-418-5084.

Sauntia S. Warfield,
Staff Assistant.

[FR Doc. E8-18335 Filed 8-5-08; 4:15 pm]

BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday August 29, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202-418-5084.

Sauntia S. Warfield,
Staff Assistant.

[FR Doc. E8-18347 Filed 8-5-08; 4:15 pm]

BILLING CODE 6351-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2506-144-MI]

Upper Peninsula Power Company; Notice of Availability of Environmental Assessment

July 30, 2008.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed Upper Peninsula Power Company's proposed shoreline management plan for the Escanaba Hydroelectric Project, located on the Middle Branch of the Escanaba River in Marquette County, Michigan, and has prepared an Environmental Assessment (EA).

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number (P-2506) excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at