

U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 753–1599–00 authorizes the permit holder to conduct studies on the mating behavior, social organization and behavioral ecology of humpback whales (*Megaptera novaeangliae*) and gray whales (*Eschrichtius robustus*) in the state waters of Alaska, Hawaii, Oregon, Washington and California. The current permit expires on January 1, 2006.

The permit holder is now requesting additional takes for humpback whales only to further study the whales' songs in Hawaiian and Alaskan waters. Specifically, the permit holder is requesting the following additional annual takes: 100 humpback whales through the playback of recorded humpback whale songs, 50 humpback whales through suction cup and implantable tags designed to study the short-term movement patterns of the animals, and 300 humpback whales through harassment incidental to these research activities.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 8, 2003.

**Jill K. Lewandowski,**

*Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*  
[FR Doc. 03–26296 Filed 10–16–03; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

### Post Allowance and Refiling

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before December 16, 2003.

**ADDRESSES:** Direct all written comments to Susan K. Brown, Records Officer, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division, 703–308–7400, U.S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313, Attn: CPK 3 Suite 310; by e-mail at [susan.brown@uspto.gov](mailto:susan.brown@uspto.gov); or by facsimile at (703) 308–7407.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Robert J. Spar, Director, Office of Patent Legal Administration, USPTO, PO Box 1450, Alexandria, VA 22313–1450; by telephone at (703) 308–5107; or by e-mail at [bob.spar@uspto.gov](mailto:bob.spar@uspto.gov).

### SUPPLEMENTARY INFORMATION

#### I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 and 151 to examine applications and, when appropriate, allow applications and issue them as patents. When an application for a patent is allowed by the USPTO, the USPTO issues a notice of allowance and the applicant must pay the specified issue fee (including the publication fee, if applicable) within three months to avoid abandonment of the application. If the appropriate fees are paid within the proper time period, the USPTO can then issue the patent. If the fees are not paid within the designated time period, the application is abandoned and the applicant may petition the Director to accept a delayed payment with a satisfactory showing that the delay was unavoidable. This Petition for Revival of an Application for Patent Abandoned Unavoidably (Form PTO/SB/61) is approved under information collection 0651–0031. The rules outlining the procedures for payment of the issue fee and issuance of a patent are found at 37 CFR 1.18 and 1.311–1.317.

Chapter 25 of Title 35 U.S.C. provides that there are several actions that the applicant may take after issuance of a patent, including requesting the correction of errors in a patent. For original patents that are deemed wholly or partly inoperative, applicants may file a reissue application, which entails several formal requirements including an oath or declaration that the errors in the patent were not the result of any deceptive intention on the part of the applicant. The rules outlining these procedures are found at 37 CFR 1.171–1.179 and 1.322–1.325.

Chapter 30 of Title 35 U.S.C. provides that any person at any time may file a request for reexamination by the USPTO of any claim of a patent on the basis of prior art patents or printed publications. Once initiated, the reexamination proceedings are substantially *ex parte* and do not permit input from third parties, but Chapter 31 also provides for optional *inter partes* reexamination allowing third parties to participate. The rules outlining *ex parte* and *inter partes* reexaminations are found at 37 CFR 1.510–1.570 and 1.902–1.997.

If a request for *ex parte* or *inter partes* reexamination is denied, the requester may petition the Director to review the examiner's refusal of reexamination. The USPTO is adding these two petitions, the Petition to Review Refusal to Grant *Ex Parte* Reexamination (37 CFR 1.515(c)) and the Petition to Review Refusal to Grant *Inter Partes* Reexamination (37 CFR 1.927), to this information collection. These petitions are not new requirements but were not previously covered in this collection. No forms are provided for these petitions.

The public uses this information collection to request corrections of errors in issued patents, to request reissue patents, to request reexamination proceedings, and to ensure that associated fees and documentation are submitted to the USPTO. The USPTO provides 10 paper forms that the public may use to submit the necessary information for these requirements, although there are no forms provided for some of the documentation necessary for a reissue application.

This collection was previously approved by OMB in January 2001, at which time Form PTO/SB/58 Request for *Inter Partes* Reexamination was added to this collection to support the USPTO's amended rules of practice implementing third party reexamination proceedings as found in the American Inventors Protection Act of 1999. In May 2001, OMB approved a change worksheet to delete Form PTO/SB/54 Reissue Application by the Assignee, Offer to Surrender Patent from this collection due to the elimination of the requirement to file an offer to surrender the original patent at the time of filing a reissue application. The USPTO also revised Form PTOL–85B Issue Fee Transmittal in order to support a change in practice regarding publication fees and to accommodate the acceptance of payments by credit card. In November 2001, OMB approved another change worksheet that increased the total responses and burden hours as an administrative adjustment to reflect a

net increase in filings for the items covered under this collection.

The USPTO also recently submitted this collection in conjunction with a notice of proposed rulemaking entitled "Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan" (RIN 0651-AB64), which was published in the **Federal Register** on September 12, 2003 (Vol. 68, No. 177). The proposed rulemaking would eliminate the requirement in 37 CFR 1.178 for a ribbon copy of the patent grant to be surrendered in a reissue application and consequently delete Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent from this collection. The rulemaking would also allow applicants to use electronic signatures to sign patent and examination proceeding documents that have been created electronically with a word processor or obtained from the USPTO website as fillable forms. The information collection package for 0651-0033 associated with this proposed rulemaking is currently under review at OMB.

## II. Method of Collection

By mail, facsimile, or hand delivery to the USPTO.

## III. Data

*OMB Number:* 0651-0033.

*Form Number(s):* PTO/SB/44/50/51/51S/52/53/56/57/58 and PTOL-85B.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Individuals or households; businesses or other for-profits; not-for-profit institutions; farms; the Federal Government; and state, local or tribal governments.

*Estimated Number of Respondents:* 223,411 responses per year. This estimate includes the decrease of 95 responses per year that would result from the deletion of Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent, which is currently under review at OMB.

*Estimated Time Per Response:* The USPTO estimates that it will take the public from 1.8 minutes (0.03 hours) to 2 hours to gather the necessary information, prepare the appropriate form or other document, and submit the information to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 67,261 hours per year.

This estimate includes the decrease of 5 hours per year that would result from the deletion of Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent, which is currently under review at OMB.

*Estimated Total Annual Respondent Cost Burden:* \$8,380,572 per year. The USPTO expects that the information in this collection will be prepared by attorneys, except for the Issue Fee Transmittal, which will be prepared by paraprofessionals. Using the professional rate of \$252 per hour for associate attorneys in private firms, the USPTO estimates that the respondent cost burden for attorneys submitting the information in this collection will be \$7,222,572 per year. Using the paraprofessional rate of \$30 per hour, the USPTO expects that the respondent cost burden for submitting the Issue Fee Transmittal form will be \$1,158,000 per year. These estimates exclude the respondent cost burden for Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent due to the pending deletion of this form in the 0651-0033 information collection submission that is currently under review at OMB.

Item	Form number	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Certificate of Correction .....	PTO/SB/44 .....	1 hour .....	25,000	25,000
Reissue Documentation .....	None .....	2 hours .....	870	1,740
Reissue Patent Application Transmittal .....	PTO/SB/50 .....	12 minutes .....	870	174
Reissue Application Declaration by the Inventor or the Assignee .....	PTO/SB/51/52 ..	30 minutes .....	870	435
Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175).	PTO/SB/51S .....	1.8 minutes .....	550	17
Reissue Application: Consent of Assignee; Statement of Non-assignment.	PTO/SB/53 .....	6 minutes .....	850	85
Reissue Application Fee Transmittal Form .....	PTO/SB/56 .....	12 minutes .....	870	174
Request for Ex Parte Reexamination Transmittal Form .....	PTO/SB/57 .....	2 hours .....	330	660
Request for Inter Partes Reexamination Transmittal Form .....	PTO/SB/58 .....	2 hours .....	175	350
Petition to Review Refusal to Grant Ex Parte Reexamination .....	None .....	1 hour .....	25	25
Petition to Review Refusal to Grant Inter Partes Reexamination .....	None .....	1 hour .....	1	1
Issue Fee Transmittal .....	PTOL-85B .....	12 minutes .....	193,000	38,600
Total .....			223,411	67,261

*Estimated Total Annual Non-hour Respondent Cost Burden:* \$257,516,601 per year. There are no capital start-up costs, maintenance costs, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees and postage costs.

The total estimated annual filing fees for this collection are calculated in the accompanying chart. The fees listed correspond to the USPTO Fee Schedule effective October 1, 2003. The Reissue Fee Transmittal Form includes the filing

fees for the reissue application (including small entities) and covers all parts of the application, including reissue documentation, reissue application transmittal, reissue application declarations, and consent of assignee or statement of non-assignment. There is no fee for the supplemental declaration for a reissue patent application to correct an "errors" statement.

Additionally, there are several different issue fees under 37 CFR 1.18 depending on the type of patent being issued, whether a publication fee is

required, and whether the inventor is entitled to the discounted small entity fee. The additional publication fee may not be owed at the time of patent issue for any of the following reasons: (1) The application requested non-publication under 35 U.S.C. 122(b)(2)(B)(i); (2) the application will not be published due to national security concerns as provided in 35 U.S.C. 122(d); (3) the applicant has paid the publication fee prior to issue due to a request for early or amended publication under 37 CFR 1.219; or (4) the application was filed prior to November 29, 2000 and therefore not

subject to eighteen-month publication under 35 U.S.C. 122(b). The USPTO estimates that the total filing costs

associated with this collection will be \$257,407,130 per year.

Item	Form No.	Estimated annual responses	Fee amount	Estimated annual filing costs
Certificate of Correction .....	PTO/SB/44 .....	25,000	\$100.00	\$2,500,000.00
Reissue Documentation .....	None .....	870	0.00	0.00
Reissue Patent Application Transmittal .....	PTO/SB/50 .....	870	0.00	0.00
Reissue Application Declaration by the Inventor or the Assignee .....	PTO/SB/51/52 ..	870	0.00	0.00
Supplemental Declaration for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175).	PTO/SB/51S .....	550	0.00	0.00
Reissue Application: Consent of Assignee; Statement of Non-assignment.	PTO/SB/53 .....	850	0.00	0.00
Reissue Application Fee Transmittal Form .....	PTO/SB/56 .....	520	770.00	400,400.00
Reissue Application Fee Transmittal Form (small entity) .....	PTO/SB/56 .....	350	385.00	134,750.00
Request for Ex Parte Reexamination Transmittal Form .....	PTO/SB/57 .....	330	2,520.00	831,600.00
Request for Inter Partes Reexamination Transmittal Form .....	PTO/SB/58 .....	175	8,800.00	1,540,000.00
Petition to Review Refusal to Grant Ex Parte Reexamination .....	None .....	25	130.00	3,250.00
Petition to Review Refusal to Grant Inter Partes Reexamination .....	None .....	1	130.00	130.00
Issue Fee (utility patent, no publication fee) .....	PTOL-85B .....	25,000	1,330.00	33,250,000.00
Issue Fee (utility patent, no publication fee, small entity) .....	PTOL-85B .....	9,000	665.00	5,985,000.00
Issue Fee (utility patent, with publication fee) .....	PTOL-85B .....	105,000	1,630.00	171,150,000.00
Issue Fee (utility patent, with publication fee, small entity) .....	PTOL-85B .....	36,000	965.00	34,740,000.00
Issue Fee (design patent, no publication fee) .....	PTOL-85B .....	8,500	480.00	4,080,000.00
Issue Fee (design patent, no publication fee, small entity) .....	PTOL-85B .....	8,500	240.00	2,040,000.00
Issue Fee (plant patent, no publication fee) .....	PTOL-85B .....	120	640.00	76,800.00
Issue Fee (plant patent, no publication fee, small entity) .....	PTOL-85B .....	80	320.00	25,600.00
Issue Fee (plant patent, with publication fee) .....	PTOL-85B .....	480	940.00	451,200.00
Issue Fee (plant patent, with publication fee, small entity) .....	PTOL-85B .....	320	620.00	198,400.00
<b>Total</b> .....	.....	<b>223,411</b>	.....	<b>\$257,407,130.00</b>

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage cost for a mailed submission will be 49 cents and that up to 223,411 submissions will be mailed to the USPTO per year. The total estimated postage cost for this collection is \$109,471 per year.

These estimated annual (non-hour) costs exclude the costs for Form PTO/SB/55 Reissue Patent Application Statement as to Loss of Original Patent due to the pending deletion of this form in the 0651-0033 information collection submission that is currently under review at OMB. The total non-hour respondent cost burden for this collection in the form of filing fees and postage costs is \$257,516,601 per year.

#### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the collection of information on respondents, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 10, 2003.

**Susan K. Brown,**

*Records Officer, USPTO, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division.*

[FR Doc. 03-26275 Filed 10-16-03; 8:45 am]

**BILLING CODE 3510-16-P**

#### DEPARTMENT OF DEFENSE

##### Department of the Air Force

##### HQ USAF Scientific Advisory Board

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to Public Law 92-463, notice is hereby given of the forthcoming meeting of the 2003 Science and Technology Review. The purpose of the meeting is to allow the SAB and study leadership to assess the

quality and long-term relevance of Air Vehicle research. Because classified and contractor-proprietary information will be discussed, this meeting will be closed to the public.

**DATES:** November 3-7, 2003.

**ADDRESSES:** Wright-Patterson Air Force Base, Ohio.

##### **FOR FURTHER INFORMATION CONTACT:**

Major Dwight Pavak, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington DC 20330-1180, (703) 697-4811.

**Pamela D. Fitzgerald,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 03-26291 Filed 10-16-03; 8:45 am]

**BILLING CODE 5001-05-P**

#### DEPARTMENT OF DEFENSE

##### Department of the Navy

##### **Meeting of the Chief of Naval Operations (CNO) Executive Panel**

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of closed meeting.

**SUMMARY:** The CNO Executive Panel reported the recommendations of the South Asia Study Group to the Chief of Naval Operations. This meeting consisted of discussions relating to