

Pacific Stock Assessment Review process is publicly available at: <http://www.npfmc.org/wp-content/PDFdocuments/resources/SAFE/AFSCsafeReviewProcess.pdf>.

#### (5) Western Pacific Stock Assessment Review (WPSAR)

(i) *Scope and objective.* The Western Pacific Stock Assessment Review (WPSAR) process has been jointly established by the NMFS Pacific Islands Fisheries Science Center (PIFSC), NMFS Pacific Islands Regional Fisheries Office (PIRO), and Western Pacific Fishery Management Council (WPFMC) to conduct the peer review of scientific information used for fishery management in the Pacific Islands Region.

(ii) *Background.* The WPSAR process was established to improve the quality and reliability of stock assessments for fishery resources in the Pacific Islands region. The process provides for rigorous and independent scientific review of stock assessments, and encourages constituent/stakeholder participation in stock assessment reviews. A five-year planning horizon is adopted to facilitate the timely execution of critical data collection activities, population dynamics model development, and stock evaluation exercises. The WPFMC, PIFSC and PIRO share the fiscal and logistical responsibilities of the WPSAR process. The WPFMC sponsors the review process, and PIFSC, PIRO and WPFMC staff coordinate and facilitate the review process in the Coordinating Committee. Specifically, the Coordinating Committee consults with the WPSAR Steering Committee, which is comprised of WPFMC, PIFSC, PIRO leadership, to develop the WPSAR schedule, prepare terms of reference, convene the review panels, and any other duties deemed pertinent by the Steering Committee. The WPSAR process adopts a three tier approach for the review and acceptance of stock assessment research products. The tiers differ in form, timing, scope, and panel membership, commensurate with the novelty and complexity of the information under review. Under Tier 1, CIE reviewers conduct independent peer reviews of new stock assessment methodologies and, in special circumstances, international stock assessments in accordance with the specified terms of reference. The application of new methodologies and benchmark assessments fall under Tier 2 which utilizes panel independent subject matter experts. Tier 3 is used for assessment updates, where only new data are added to an existing and approved assessment.

The Coordinating Committee, in consultation with the WPSAR Steering Committee, identifies and selects expert panel members. The selected panel reviews the products in accordance with the associated terms of reference. A standing member of the Council's SSC will chair each WPSAR Tier 2 Review Panel and provide a summary report. Each individual reviewer produces and provides a report regarding their unique findings.

(iii) *Terms of reference.* The terms of reference are developed before each review, and identify the specific assessment parameters to be addressed during that review.

(iv) *Compliance with National Standard 2.* The WPSAR process for conducting peer review of scientific information for fishery management is fully compliant with the NS2 guidelines.

Tier 1 reviews will be conducted by the CIE, in accordance with CIE protocols (<http://ciereviews.org/>). For Tier 2 reviews, the panel will consist of three to five experts, the exact size determined by the WPSAR Coordinators and approved by the Steering Committee. The Tier 2 Review's Chair will be a standing member of the Council's SSC, and appointed by the Steering Committee. In addition, all reviewers must meet qualifications required for the peer review. The independent reviewers can come from the CIE, academia, or be nominated by the public. Reviewers will be selected in accordance with NS2 peer reviewer selection guidelines (50 CFR 600.315(b)(2) and (c)(2)), and in accordance NOAA's Conflict of Interest Policy. Like a Tier 2 panel, Tier 3 panels will consist of three to five experts, the exact size determined by the WPSAR Coordinators and approved by the Steering Committee. Under Tier 3 only, the Steering Committee may unanimously agree to a WPRFMC SSC/PIFSC-only review.

(v) *Transparency.* All meetings are open to the public, and will be announced in the **Federal Register** with a minimum of 14 days before a review. More detailed information for the WPSAR process is publicly available at [http://www.pifsc.noaa.gov/peer\\_reviews/wpsar/index.php](http://www.pifsc.noaa.gov/peer_reviews/wpsar/index.php).

*Other peer review processes.* In addition to the peer review processes described above, NMFS uses other important peer review processes to ensure the use of the BSIA for fishery management decisions. While these processes provide critical peer review of scientific information, NMFS is not identifying them as jointly established peer review processes for purposes of

MSA section 302(g)(1)(E). Many of these other peer review processes are used in connection with transboundary and/or internationally-managed species under legal authorities other than the MSA. Examples include Atlantic tuna and tuna-like species managed pursuant to the International Convention for the Conservation of Atlantic Tuna; tropical Pacific tuna managed by the Inter-American Tropical Tuna Commission; Atlantic and Pacific salmon and Pacific hake/whiting, all managed in conjunction with Canada. Lack of inclusion on the list of MSA § 302(g)(1)(E) peer review processes does not in any way diminish the integrity of those peer review processes or NMFS' confidence in and reliance on them for review of scientific information.

Dated: August 10, 2016.

**Ned Cyr,**

*Director, Office of Science and Technology,  
National Marine Fisheries Service.*

[FR Doc. 2016-19522 Filed 8-15-16; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

[Docket No.: PTO-P-2016-0024]

#### Changes in Accelerated Examination Practice

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

**ACTION:** Notice.

**SUMMARY:** In 2006, the United States Patent and Trademark Office (USPTO or Office) introduced the accelerated examination program to permit an application to be advanced out of turn if the applicant files a grantable petition under the program. Since its institution, the patent landscape has witnessed numerous legal changes such as the America Invents Act (AIA), the Patent Law Treaties Implementation Act (PLTIA) implementing the provisions of the Patent Law Treaty (PLT), and the USPTO's adoption of the Cooperative Patent Classification system (CPC) along with changes to USPTO systems. Accordingly, the Office is updating the accelerated examination program to reflect these changes in the law and examination practice.

**DATES:** Effective on August 16, 2016.

**FOR FURTHER INFORMATION CONTACT:** Pinchus M. Laufer, Senior Legal Advisor ((571) 272 7726) or Matthew Sked, Legal Advisor ((571) 272-7627), Office of Patent Legal Administration, Office of

the Deputy Commissioner for Patent Examination Policy.

#### SUPPLEMENTARY INFORMATION:

##### I. Purpose of the Notice

The USPTO published a notice in June 2006 (2006 AE Notice) to implement the accelerated examination program under which an application will be advanced out of turn for examination if the applicant files a petition to make special with the appropriate showing. *See Changes in Practice for Petitions in Patent Applications To Make Special and for Accelerated Examination*, 71 FR 36323 (June 26, 2006). This showing requires the applicant to meet several conditions, including conducting a pre-examination search, providing an accelerated examination support document (AESD), and requiring the application be complete under 37 CFR 1.51 at the time of filing. In light of recent changes in the law such as the America Invents Act (AIA), Patent Law Treaties Implementation Act (PLTIA) to implement the provisions of the Patent Law Treaty (PLT) and the conversion to the Cooperative Patent Classification system (CPC), some of the requirements and practices of the program reflected in the 2006 AE Notice are no longer appropriate. Therefore, the program is being updated to account for these changes. The full updated accelerated examination guidelines may be found on the accelerated examination Web page (<http://www.uspto.gov/patent/initiatives/accelerated-examination>) and in a forthcoming update to the Manual of Patent Examining Procedure (MPEP). In particular, the changes are explained beginning at Section I.A of this notice. Subsequent to the implementation of the AE program in 2006, the Office implemented the prioritized examination program (referred to as "Track I") provided for in the AIA in a final rule published on September 23, 2011. *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 (September 23, 2011). Since implementation of Track I in 2011, the USPTO has received fewer than 200 AE requests annually. In view of the relatively low usage of the AE program, the USPTO plans to publish a request for comments in the **Federal Register** to seek public input on whether there is value in retaining the AE program in view of the more popular Track I program.

##### A. Pre-Examination Search

The 2006 AE Notice requires that the pre-examination search include a classification search of the United States Patent Classification system (USPC) by class and subclass. 71 FR at 36324. However, the USPTO has since harmonized its classification system for utility applications with Europe to create a common classification scheme known as the CPC. Therefore, a classified search of U.S. patents and published patent applications would need to include the relevant group(s)/ subgroup(s) of the CPC rather than the class(es)/subclass(es) of the USPC. Applicants should consult with the USPTO's classification resources to determine the relevant group(s)/ subgroup(s) of the CPC to consider. The classification resources may be found in Chapter 900 of the MPEP (<http://www.uspto.gov/web/offices/pac/mpep/documents/0900.htm>) and the Office of Patent Classification Home Page (<http://www.uspto.gov/patents-application-process/patent-search/classification-standards-and-development>). It is noted that a pre-examination search regarding a design application should continue to use the USPC because the CPC only applies to utility applications.

##### B. Accelerated Examination Support Document

The accelerated examination support document (AESD) was previously required to contain an indication of whether any cited references may be disqualified as prior art under pre-AIA 35 U.S.C. 103(c) as amended by the Cooperative Research and Technology Enhancement (CREATE) Act (Pub. L. 108-453, 118 Stat. 3596 (2004)). 71 FR at 36325. In 2011, the AIA was enacted, which amended 35 U.S.C. 103 to remove subsection (c). Instead, applicants enjoy a common ownership and obligation of assignment exception to prior art under AIA 35 U.S.C. 102(b)(2)(C). Therefore, an application that is subject to examination under AIA 35 U.S.C. 102 and 103 would need to, instead, include an indication in the AESD whether any of the cited prior art may be disqualified as prior art under 35 U.S.C. 102(b)(2)(C). Applications that are subject to examination under pre-AIA 35 U.S.C. 102 and 103 would need to continue to indicate whether any of the cited references are disqualified as prior art under pre-AIA 35 U.S.C. 103(c). Applicants should consult MPEP 2159 in ascertaining whether the application is subject to examination under pre-AIA or AIA 35 U.S.C. 102 and 103. Applicants are reminded, that if the application is filed on or after March 16,

2013, and claims the benefit of or priority to an application where the filing date of a foreign, U.S. provisional, U.S. nonprovisional, or international application is prior to March 16, 2013, it is necessary for the applicant to specify whether pre-AIA or AIA 35 U.S.C. 102 and 103 applies.

It is noted that further minor changes have been made to the 2006 AE Notice to reflect changes made by the AIA such as the citation change of 35 U.S.C. 112(a) and (f) and the appeal board's designation as the Patent Trial and Appeal Board (PTAB).

##### C. Reply by Applicant

The 2006 AE Notice provides shortened statutory periods of one month or thirty days, whichever is longer, without extensions under 37 CFR 1.136(a). 71 FR at 36325, 36327. This provision of the 2006 AE Notice was updated in 2013, when the Office issued a final rule to implement the PLT stating: "The Office is revising the Accelerated Examination program to provide that Office actions (other than a notice of allowance) will set a shortened statutory period for reply of at least two months. In addition, extensions of this shortened statutory period under 37 CFR 1.136(a) will be permitted, but filing a petition for an extension of time will result in the application being taken out of the Accelerated Examination program." *Changes To Implement the Patent Law Treaty*, 78 FR 62368, 62373 (Oct. 21, 2013).

##### D. Complete Application Upon Filing

In listing the conditions that must be met at the time of filing, the 2006 AE Notice states that no petition under 37 CFR 1.47 for a non-signing inventor may be present. 71 FR at 36327. However, in implementing the AIA, 37 CFR 1.47 was removed and 37 CFR 1.46 was amended to allow an assignee, an obligated assignee, or a person who otherwise shows sufficient proprietary interest in the matter to make an application for patent. Included among the amendments to 37 CFR 1.46 is a provision in 37 CFR 1.46(b)(2) that requires a petition in order to designate a person with sufficient proprietary interest as the applicant. Thus, the conditions for participation in the AE are hereby revised to preclude any petition under 37 CFR 1.46(b)(2) to designate a person with sufficient proprietary interest as the applicant. In fact, applicant should refrain from filing any petition that would delay the processing of the application including a petition under 37 CFR 1.78 to accept a delayed benefit claim.

Additionally, the 2006 AE Notice states that a foreign priority claim under 35 U.S.C. 119(a)–(d) should be identified in the executed oath or declaration or an application data sheet (if applicable). 71 FR at 36326. Further, the 2006 AE notice also states that any domestic benefit claim must be in the first sentence of the specification or in an application data sheet. 71 FR at 36326. However, after the AIA, current rules require all domestic benefit and foreign priority claims to be made in the application data sheet (except for foreign priority claim in a national stage application under 35 U.S.C. 371) (see 37 CFR 1.55 and 1.78). Therefore, any priority claim would need to be made in an application data sheet under 37 CFR 1.76.

Finally, the 2006 AE Notice requires the applicant to file using the USPTO's electronic filing system (EFS) or EFS-Web. The USPTO's original electronic filing system (EFS) was discontinued. Therefore, applicants will need to file their accelerated examination applications through EFS-Web.

It is noted that an executed oath or declaration is no longer a condition for examination after the AIA. However, it is a requirement under 37 CFR 1.51 and will need to be present upon filing for entry in the program. A missing oath or declaration will not result in a notice to file missing parts when the application is reviewed by the Office of Patent Application Processing (OPAP). Nonetheless, the presence of the oath or declaration in compliance with 37 CFR 1.63 or substitute statement in compliance with 37 CFR 1.64 will subsequently be reviewed in the Technology Centers by the Quality Assurance Specialist (QAS) office. Failure to have a compliant oath, declaration, or substitute statement upon filing will prevent the application from being accorded special status.

## II. Changes to the 2006 AE Notice

As detailed above, the 2006 AE Notice has been modified to reflect changes in law and examination practice. The changes are set out below as paragraphs that replace paragraphs in the original notice.

The changes in *Part I* are as follows: 71 FR at 36324, col. 2, fifth paragraph (“(3) . . .”) is replaced with the following:

(3) The application, petition, and required fees must be filed electronically using the USPTO's electronic filing system (EFS-Web). If the USPTO's EFS-Web is not available to the public during the normal business hours for the system at the time of filing the application, applicant may file the

application, other papers, and fees by mail accompanied by a statement that EFS-Web was not available during the normal business hours, but the final disposition of the application may occur later than twelve months from the filing of the application. See Part VIII (subsection The Twelve-Month Goal) for more information.

71 FR at 36324, col. 3, fourth paragraph (“(8) . . .”) is replaced with the following:

(8) At the time of filing, applicant must provide a statement that a preexamination search was conducted, including an identification of the field of search (*i.e.*, group/subgroup of the CPC for utility applications and class/subclass of the USPC for design applications) and the date of the search, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file or files searched and the database service, and the date of the search.

71 FR at 36325, col. 1–2, ninth paragraph (“(E) . . .”) is replaced with the following:

(E) The accelerated examination support document must include a showing of where each limitation of the claims finds support under 35 U.S.C. 112(a) in the written description of the specification. If applicable, the showing must also identify: (1) Each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112(f); and (2) the structure, material, or acts in the specification that correspond to each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112(f). If the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 U.S.C. 112(a) in each such application in which such support exists.

71 FR at 36325, col. 2, first paragraph (“(F) . . .”) is replaced with the following:

(F)(1) For an application that is subject to examination under the pre-AIA 35 U.S.C. 102 and 103: The accelerated examination support document must identify any cited references that may be disqualified as prior art under pre-AIA 35 U.S.C. 103(c) as amended by the Cooperative Research and Technology Enhancement (CREATE) Act (Pub. L. 108–453, 118 Stat. 3596 (2004)).

(F)(2) For an application that is subject to examination under AIA 35 U.S.C. 102 and 103: The accelerated examination support document must identify any cited references that may be

disqualified as prior art under 35 U.S.C. 102(b)(2)(C).

The changes in *Part III* are as follows: 71 FR at 36325, col. 3, second paragraph (“If an . . .”) is replaced with the following:

If an Office action other than a notice of allowance is mailed, the Office action will set a shortened statutory period of two (2) months. Extensions of time under the provisions of 37 CFR 1.136(a) will be permitted, but will result in the application being taken out of the program. Failure to timely file a reply will result in abandonment of the application. See Parts V and VI for more information on post-allowance and after-final procedures.

The changes in *Part VI* are as follows: 71 FR at 36326, col. 1–2, third paragraph (“*After-Final and Appeal Procedures*”) is replaced with the following:

*After-Final and Appeal Procedures:* The mailing of a final Office action or the filing of a notice of appeal, whichever is earlier, is the final disposition for purposes of the twelve-month goal for the program. Prior to the mailing of a final Office action, the USPTO will conduct a conference to review the rejections set forth in the final Office action (*i.e.*, the type of conference conducted in an application on appeal when the applicant requests a pre-appeal brief conference). In order for the application to be expeditiously forwarded to the Patent Trial and Appeal Board (PTAB) for a decision, applicant must: (1) Promptly file the notice of appeal, appeal brief, and appeal fees; and (2) not request a pre-appeal brief conference. A pre-appeal brief conference would not be of value in an application under a final Office action because the examiner will have already conducted such a conference prior to mailing the final Office action. During the appeal process, the application will be treated in accordance with the normal appeal procedures. The USPTO will continue to treat the application special under the accelerated examination program after the decision by the PTAB.

The changes in *Part VIII* are as follows:

71 FR at 36326, col. 3, ninth paragraph (“(G) . . .”) is replaced with the following:

(G) Electronic submissions of sequence listings in compliance with 37 CFR 1.821(c) or (e), large tables, or computer listings in compliance with 37 CFR 1.96, submitted via the USPTO's electronic filing system (EFS-Web) in ASCII text as part of an associated file (if applicable);

71 FR at 36326, col. 3, tenth paragraph (“(H) . . .”) is replaced with the following:

(H) Foreign priority claim under 35 U.S.C. 119(a)–(d) identified in the application data sheet (if applicable);

71 FR at 36326–27, col. 3, eleventh paragraph (“(I) . . .”) is replaced with the following:

(I) Domestic benefit claims under 35 U.S.C. 119(e), 120, 121, 365(c), or 386(c) in compliance with 37 CFR 1.78 (e.g., the specific reference to the prior application must be submitted in an application data sheet, and for any benefit claim to a non-English language provisional application, the application must include a statement that: (a) An English language translation, and (b) a statement that the translation is accurate, have been filed in the provisional application) (if applicable);

71 FR at 36327, col. 1, third paragraph (“(L) . . .”) is replaced with the following:

(L) No petition under 37 CFR 1.46(b)(2) to designate a person with sufficient proprietary interest as the applicant.

71 FR at 36327, col. 1, fifth paragraph (“Applicant should . . .”) is replaced with the following:

Applicant should also provide a suggested classification (i.e., group/subgroup of the Cooperative Patent Classification for utility applications or class/subclass of the U.S. Patent Classification for design applications) for the application on the transmittal letter, petition, or an application data sheet as set forth in 37 CFR 1.76(b)(3) so that the application can be expeditiously processed.

71 FR at 36327, col. 1, sixth paragraph (“The petition . . .”) is replaced with the following:

The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Patent Application Processing (OPAP) to mail a notice during the formality review (e.g., a notice of incomplete application, notice to file missing parts, notice to file corrected application papers, notice of omitted items, or notice of informal application). The opportunity to perfect a petition (Part II) does not apply to applications that are not in condition for examination on filing.

71 FR at 36327, col. 1, seventh paragraph (“Reply Not . . .”) is replaced with following:

**Reply Not Fully Responsive:** If a reply to a non-final Office action is not fully responsive, but a bona fide attempt to advance the application to final action, the examiner may provide two (2) months for applicant to supply the

omission or a fully responsive reply. Extensions of time under the provisions of 37 CFR 1.136(a) are permitted, but will result in the application being taken out of the program. Failure to timely file the omission or a fully responsive reply will result in abandonment of the application.

If the reply is not a bona fide attempt, no additional time period will be given. The time period set forth in the previous Office action will continue to run.

Dated: August 10, 2016.

**Michelle K. Lee,**

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

[FR Doc. 2016–19527 Filed 8–15–16; 8:45 am]

**BILLING CODE 3510–16–P**

## DEPARTMENT OF ENERGY

### Secretary of Energy Advisory Board

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB). SEAB was reestablished pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

**DATES:** September 22, 2016, 8:30 a.m.–12:30 p.m.

**ADDRESSES:** Department of Energy, 1000 Independence Avenue SW., Room 1E–245, Washington, DC 20585.

**FOR FURTHER INFORMATION CONTACT:**

Karen Gibson, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; *seab@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background:** The Board was established to provide advice and recommendations to the Secretary on the Department’s basic and applied research, economic and national security policy, educational issues, operational issues, and other activities as directed by the Secretary.

**Purpose of the Meeting:** This meeting is the quarterly meeting of the Board.

**Tentative Agenda:** The meeting will start at 8:30 a.m. on September 22nd. The tentative meeting agenda includes: Updates from SEAB’s task forces, approval of SEAB reports, informational briefings, and an opportunity for comments from the public. The meeting will conclude at 12:30 p.m. Agenda updates will be posted on the SEAB Web site prior to the meeting: *www.energy.gov/seab*.

**Public Participation:** The meeting is open to the public. Individuals who would like to attend must RSVP to Karen Gibson no later than 5:00 p.m. on Tuesday, September 20, 2016 at *seab@hq.doe.gov*. Please provide your name, organization, citizenship, and contact information. Anyone attending the meeting will be required to present government issued identification. Please note that the Department of Homeland Security (DHS) has determined that regular driver’s licenses (and ID cards) from the following jurisdictions are not acceptable: Alaska, American Samoa, Arizona, Louisiana, Maine, Massachusetts, Minnesota, New York, Oklahoma, and Washington. Acceptable alternate forms of Photo-ID include:

- U.S. Passport or Passport Card
- An Enhanced Driver’s License or Enhanced ID-Card issued by the states of Minnesota, New York or Washington (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver’s License)
- A military ID or other government issued Photo-ID card

Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 8:15 a.m. on September 22nd.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Karen Gibson, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, email to *seab@hq.doe.gov*.

**Minutes:** The minutes of the meeting will be available on the SEAB Web site or by contacting Ms. Gibson. She may be reached at the postal address or email address above, or by visiting SEAB’s Web site at *www.energy.gov/seab*.

Issued in Washington, DC, on August 10, 2016.

**LaTanya R. Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2016–19495 Filed 8–15–16; 8:45 am]

**BILLING CODE 6450–01–P**