address IUU fishing and/or bycatch of PLMRs by fishing vessels of that nation. If a nation does not receive a positive certification by the Secretary, they could be subject to sanctions under the High Seas Driftnet Fisheries Enforcement Act (Enforcement Act) (16 U.S.C. 1826a). On January 14, 2009, NMFS published a proposed rule to implement both the identification and certification procedures. That proposed rule is available online at *http://www.nmfs.noaa.gov/msa2007/docs/iuu_bycatch_rule011409.pdf.* The rule provides information regarding the identification process how the information solicited here will be used in that process.

In fulfillment of its requirements under the Moratorium Protection Act, NMFS is preparing the second biennial report to Congress, which will identify nations whose fishing vessels are engaged in IUU fishing or fishing practices that result in bycatch of PLMRs. NMFS is soliciting information from the public that could assist in its identification of nations engaged in activities that meet one or more of the three criteria described above for IUU fishing or one or more of the two criteria described above for PLMR bycatch. Information that may prove useful to NMFS includes:

- Documentation (photographs, *etc.*) of IUU activity or PLMR bycatch;
- Fishing vessel records;
- Reports from off-loading facilities, port-side government officials, enforcement agents, military personnel, port inspectors, transshipment vessel workers and fish importers;
- Government vessel registries;
- IUU vessel lists from RFMOs;
- RFMO catch documents and statistical document programs;
- Appropriate certification programs; and
- Reports from governments, international organizations, or nongovernmental organizations.

NMFS will consider all available information, as appropriate, when making a determination whether or not to identify a particular nation in the biennial report to Congress. NMFS is particularly interested in information on IUU fishing activity and bycatch of PLMRs that occurred during 2009–2010. NMFS will consider several criteria when determining whether information is appropriate for use in making identifications, including but not limited to:

- Corroboration of information;
- Whether multiple sources have been able to provide information in support of an identification;
- The methodology used to collect the information;
- Specificity of the information provided; and
- Susceptibility of the information to falsification and alteration; and
- Credibility of the individuals or organization providing the information.

Information should be as specific as possible as this will assist NMFS in its review.

Dated: March 31, 2010.

Rebecca Lent,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 2010–7768 Filed 4–5–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–2010–0012]

Patents Ombudsman Pilot Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) published a notice in the **Federal Register** seeking public comments on a proposed procedure for a Patents Ombudsman Pilot Program. The majority of the written comments from the patent community were positive and supported the implementation of such a program. After considering the written comments, the USPTO has decided to implement the Patents Ombudsman Pilot Program as set forth in this notice for a period of one year. The Patents Ombudsman Pilot Program is intended to provide patent applicants, attorneys and agents with assistance with application-processing issues regarding concerns with advancement of prosecution (*e.g.,* stalled applications). The Patents Ombudsman Pilot Program is not intended to circumvent normal communication between pro se applicants or applicants' representatives and examiners or Supervisory Patent Examiners, and it is not intended to supersede the authority of the examiners or Supervisory Patent Examiners. After the one-year period, the USPTO may extend the pilot program with appropriate modifications based on the feedback from the participants, the effectiveness of the pilot program and the availability of resources.

DATES: *Effective Date:* April 6, 2010.

Duration: The Patents Ombudsman Pilot Program will run for twelve months from its effective date. Therefore, any request under the Patents Ombudsman Pilot Program must be submitted before April 6, 2011.

FOR FURTHER INFORMATION CONTACT: Mindy Fleisher, Special Programs Advisor, Technology Center (TC) 2400, at (571) 272–3365, or Pinchus M. Laufer, Legal Advisor, Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy, at (571) 272–7726.

Valencia Martin-Wallace, TC 2400 Director, available at (571) 272–4020, will provide oversight of the Patents Ombudsman Pilot Program.

SUPPLEMENTARY INFORMATION: The majority of patent applications filed with the USPTO proceed through the examination process consistent with established USPTO procedure. However, some patent applicants, attorneys, and agents have expressed that their applications have not proceeded in accordance with established procedure. In some situations, the patent applicants, attorneys, and agents have felt that examination has stalled and that their efforts to move their applications forward through the normal channels have not been effective. Patent applicants, attorneys, and agents have suggested that there be a dedicated resource they can turn to in such instances. These suggestions led the USPTO to consider implementing a Patents Ombudsman Pilot Program and to publish a notice in the **Federal Register** seeking public comments on a proposed procedure. *See Request for Comments on Patents Ombudsman Pilot Program,* 74 FR 55212 (Oct. 27, 2009), 1348 *Off. Gaz. Pat. Office* 418 (Nov. 24, 2009). The USPTO received fifteen written comments from the public, which are available on the USPTO Web site at *http://www.uspto.gov/patents/law/comments/ombudsmancomments.jsp.* The majority of the written comments from the patent community were positive and supported the implementation of such a program. The USPTO considered the written comments and decided to implement the Patents Ombudsman Pilot Program as set forth in this notice for the duration of one year. After the one-year period, the USPTO may extend the pilot program with appropriate modifications based on feedback from the participants, the effectiveness of the pilot program and the availability of resources.

The objectives for the Patents Ombudsman Pilot Program are: (1) To facilitate complaint-handling for pro se applicants and applicant's representatives whose applications have

stalled in the examination process; (2) to track complaints to ensure each is handled within ten business days; (3) to provide feedback and early warning alerts to USPTO management regarding training needs based on complaint trends; and (4) to build a database of frequently asked questions accessible to the public that tracks commonly seen problems and effective resolutions. The entire Patent Examining Corps and other Patents operation units (*e.g.,* Office of Patent Application Processing) will be included in the program. While the USPTO realizes the role of the ombudsman in the Patents Ombudsman Pilot Program as set forth in this notice does not fall within the "classic" definition of the term "ombudsman," the USPTO notes that many Federal agencies have established ombudsman-like complaint-handling offices and this pilot program is in line with that type of office. Furthermore, the USPTO published a notice proposing a Patents Ombudsman Pilot Program and had many discussions with the stakeholders regarding the program. Therefore, the USPTO decided to continue to use the term "ombudsman" in the pilot program to avoid confusion. Additionally, the USPTO will continue to work with the Coalition of Federal Ombudsmen to ensure that the USPTO's program will meet the intended goals.

The Patents Ombudsman Pilot Program is intended to provide patent applicants, attorneys and agents with assistance with application-processing issues, particularly concerns with advancement of prosecution. The program is to be used by applicants who believe that their applications have stalled in the examination process. Specifically, the program is intended for those applications in which the normal process has gone awry, and after all other avenues have been used but failed to provide the needed assistance. The ombudsman may be contacted for an application-processing issue that applicant has been unable to resolve using USPTO's existing processes (*e.g.,* the examiner that does not appear to address a new argument or amendment, and the applicant cannot reach the examiner and Supervisory Patent Examiner after a reasonable period of time). Other examples of situations where it is appropriate to contact an Ombudsman will be provided on the USPTO Web site at *http://www.uspto.gov/patents/ombudsman.jsp.*

The Patents Ombudsman Pilot Program, however, cannot be used as an alternative forum for resolution of disagreements between the applicant and a USPTO official that are currently resolved via appeal, petition or other procedures (*e.g.,* a request for pre-appeal brief conference). The program cannot be used to circumvent the examination process and normal communication between pro se applicants or applicants' representatives, and examiners, Supervisory Patent Examiners, or TC Directors, with respect to their applications. Furthermore, the program cannot be used to supersede the authority of the USPTO deciding official but rather to help ensure that applications proceed through the established process in a timely fashion. In particular, the role of the ombudsman will not usurp the function of the examiner, Supervisory Patent Examiner, or TC Director, such as participating in any interviews or any pre-appeal or appeal conferences.

In addition, the USPTO has various customer services mechanisms already in place and the Patents Ombudsman Pilot Program is not intended to replace those mechanisms. Specifically, the program should not be used for routine status inquiries or other routine matters. Applicants are encouraged to check the status of their applications using the Private Patent Application Information Retrieval (PAIR) system, or contact the various help desks for assistance (*e.g.,* the Patents Electronic Business Center (EBC) for any assistance on electronic filings), rather than contacting the ombudsman. *See* Manual of Patent Examining Procedure (MPEP) § 203.08 for more information on status inquiries. Contact information for various organizations is available on the USPTO Web site at *http://www.uspto.gov/patents/ombudsman.jsp.* Applicants may receive faster assistance by going to the point of contact in the USPTO that routinely resolves the relevant issue.

In order to participate in the Patents Ombudsman Pilot Program, pro se applicants or applicants' representatives must fill an electronic form on the USPTO Web site at *http://www.uspto.gov/patents/ombudsman.jsp* to provide their name and phone number and select the ombudsman for the patent organization (*e.g.,* TC 2400) in which they are seeking assistance. Once a participant accesses the program via the USPTO Web site, the participant will immediately receive a system generated e-mail response noting that the inquiry was received. The participant should expect a telephone call from the ombudsman within one business day to proceed with the inquiry. A person seeking assistance in an application through the Patents Ombudsman Pilot Program must have the authority to represent the application. Therefore, third parties and individuals represented by a patent attorney or agent may not participate in the program.

The ombudsman in the appropriate organization will call the pro se applicant or applicants' representative within one business day to obtain a full description of the issue. During the initial telephone call, the participant may request that the communication with the ombudsman not be forwarded to the deciding official (*e.g.,* the Examiner). This will permit participants to provide feedback and early warning alerts to USPTO management regarding training needs based on complaint trends. Once the full description is obtained, the ombudsman will create a record in a database. The record in the database will be solely limited to the contact information and a general description of the issue at a generic level that does not require it to be made part of the application record.

All requests for assistance made to the pilot program will be tracked in the database to: (1) Ensure that all requests for assistance are addressed; (2) identify and use trends to develop targeted training for employees as appropriate; and (3) enhance customer service. The ombudsman will be regularly monitoring the database to look for trends within his/her own area, and the senior management team managing the program will be looking at the database for overall trends. These trends will be reported to senior management and used to develop future initiatives as appropriate. The TC Director who is overseeing the Patents Ombudsman Pilot Program, Valencia Martin-Wallace, will also periodically review reports of the suggestions, comments and complaints to look for trends regarding similar issues and implement appropriate changes to resolve these issues.

The Patents Ombudsman Pilot Program is staffed by senior supervisors and TC staff, including Supervisory Patent Examiners, Training Quality Assurance Specialists, and subject matter experts. Unless participant requests that the issue raised with the ombudsman not be forwarded to the deciding official, the ombudsman will forward the issue to an official in the appropriate organization that is best suited to resolve the issue (*e.g.,* Technical Support Staff, Supervisory Patent Examiner, or TC Director) and ensure that the issue is appropriately addressed. The official in the appropriate organization will notify the participant of the resolution. Any written communication between the official in the appropriate organization and the participant, and any complete

written statement as to the substance of a telephone interview, with regard to the merits of an application will be made of record in the application (*e.g.,* the examiner will complete an Interview Summary form PTOL–413 for any interview where a matter of substance has been discussed during the interview). *See* MPEP § 713.04. Furthermore, any written communication received by the ombudsman regarding the merits of an application will be placed in the application file.

The ombudsman will request that the official send a message back to the ombudsman when the issue has been treated and the participant has been notified of the resolution. In order to gauge the effectiveness of the program, the ombudsman may contact the participant for feedback. It is intended that all issues be considered and treated within ten business days. The ombudsman in each organization will regularly monitor the database to ensure that issues are being treated in a timely manner. In particular, the ombudsman will inquire into instances where five business days have elapsed and there is no indication that the issue has been closed out or is actively in the process of being treated.

The USPTO will evaluate the success of the program by seeking feedback and comments from the participants. The satisfaction level of the participants will be monitored. If a participant is not satisfied with the program, the participant may contact TC 2400 Director, Valencia Martin-Wallace, who is overseeing the Patents Ombudsman Pilot Program. After the one-year period, the USPTO may extend the pilot program with appropriate modifications based on the feedback from the participants, the effectiveness of the pilot program and the availability of resources.

Dated: March 29, 2010.

David J. Kappos,

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

[FR Doc. 2010–7577 Filed 4–5–10; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XQ82

Small Takes of Marine Mammals Incidental to Specified Activities; Russian River Estuary Water Level Management Activities, California

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the Sonoma County Water Agency (herein after "Agency") to take small numbers of marine mammals, by Level B harassment, incidental to Russian River Estuary (Estuary) water level management and monitoring activities at the mouth of the Russian River, Jenner, CA.

DATES: Effective from April 1, 2010, through March 31, 2011.

ADDRESSES: A copy of the IHA, application and Environmental Assessment (EA) prepared for this action are available by writing to Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources (OPR), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, by telephoning the contact listed here (**FOR FURTHER INFORMATION CONTACT**) or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as: "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On September 22, 2009, NMFS received a complete application from the Agency requesting a one-year IHA to take, by Level B harassment, up to 2,861 harbor seals (*Phoca vitulina richardii*), 16 California sea lions (*Zalophus califonianus*), and 11 northern elephant seals (*Mirounga angustirostris*) incidental to estuary water level management events and monitoring activities. The management events involve the use of heavy equipment (e.g., bulldozers, excavators) to either (1) excavate a relatively steep, narrow pilot channel directly through the barrier beach which naturally forms at the mouth of the Russian River (the Agency's current breaching method); or (2) excavate and maintain a stable, relatively low velocity lagoon outlet