North Carolina Aquariums (applicant), Raleigh, North Carolina. If granted, the EFP would authorize the applicant, with certain conditions, to collect up to 60 red porgy and up to 500 lb (227 kg) of coral/live rock each year for 2 years in Federal waters off North Carolina for public display. The three North Carolina Aquariums are located at Roanoke Island, Pine Knoll Shores, and Kure Beach, North Carolina.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on November 1, 2000.

ADDRESSES: Comments on the application must be mailed to Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet. The application and related documents are available for review upon written request to the same address.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 727-570-5305; fax 727-570-5583; e-mail: peter.eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

According to the applicant, the North Carolina Aquariums (NCA), located at Roanoke Island, Pine Knoll Shores, and Kure Beach, are public, non-profit, self-supporting institutions established to promote an awareness, understanding, and appreciation of the diverse natural and cultural resources associated with North Carolina's ocean, estuaries, rivers, streams and other aquatic environments. The aquariums are major educational and conservation institutions with free admission to school children in groups and extensive field study and outreach programs. The specimens will be maintained in the NCA for public display.

The applicant intends to collect for public display up to 60 red porgy during a 2-year period and up to 500 lb (227 kg) of coral/live rock annually during a 2-year period.

The proposed collection for public display involves activities otherwise prohibited by regulations implementing the Fishery Management Plan (FMP) for Coral, Coral Reefs, and Live/Hard Bottom Habitats, and the FMP for the Snapper-Grouper Fisheries of the South Atlantic Region. The applicant requires authorization to harvest and possess corals, live rock, and red porgy taken from Federal waters off North Carolina.

Based on a preliminary review, NMFS finds that this application warrants further consideration and intends to issue an EFP. A final decision on issuance of the EFP will depend on a NMFS review of public comments received on the application, conclusions of environmental analyses conducted pursuant to the National Environmental Policy Act, and consultations with North Carolina, the South Atlantic Fishery Management Council, and the U.S. Coast Guard. The applicant requests a 24-month effective period for the EFP.

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

Dated: September 26, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–25221 Filed 9–29–00; 8:45 am]

Billing Code: 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Performance Review Board; Membership

The following individuals are eligible to serve on the Performance Review Board in accordance with the Senior Executive Service Performance Appraisal System of the National Telecommunications and Information Administration.

Bernadette McGuire-Rivera
William Hatch
Neil Seitz
Frederick Wentland
Ronald Hack

Vicki G. Brooks,

Executive Secretary, Economic Development Administration, Performance Review Board.

[FR Doc. 00–25224 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 000718211–0211–01]

RIN 0651–AB24

Study of Alternative Fee Structures

AGENCY: United States Patent and Trademark Office, Commerce.

SUMMARY: The United States Patent and Trademark Office (USPTO), in response to certain provisions of the ''American Inventors Protection Act of 1999,'' is proposing to study alternative patent fee structures to determine how best to encourage maximum participation of the U.S. inventor community in the patent system. In examining the evolution of the current fee structure, the USPTO has identified several fee structure issues which it considers important. These issues in several cases involve fee structures unconstrained by current statutory requirements, in keeping with the perceived intent of the Act. The agency will prepare a report to Congress identifying critical fee structure issues and will continue to evaluate these alternatives to determine the effects of implementation. The USPTO asks for comments on the issues raised and questions posed in this document.

DATES: To be ensured of consideration, written comments must be received on or before October 31, 2000. No public hearing will be held.

ADDRESSES: Comments should be sent by electronic mail message via the Internet addressed to barry.riordan@uspto.gov. Comments may also be submitted by mail addressed to: Office of Corporate Planning, Crystal Park One, Suite 807, Washington, D.C. 20231, or by facsimile to (703) 305–8138, marked to the attention of Barrett J. Riordan. If comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3½ inch disk accompanied by a paper copy.

FOR FURTHER INFORMATION CONTACT: Barrett J. Riordan by telephone at (703) 305–8475, by e-mail at barry.riordan@uspto.gov, by facsimile at (703) 305–8138, or by mail marked to his attention and addressed to Office of Corporate Planning, Crystal Park 1, Suite 807, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The American Inventors Protection Act of 1999, Pub. L. 106–113, 113 Stat. 1501 (1999), Section 4204 (enacted November 29, 1999), instructs the Director of the United States Patent and Trademark Office to ''conduct a study of alternative fee structures that could be adopted * * * to encourage maximum participation by the inventor community in the United States.'' Such study is to be submitted to Congress no later than one year after enactment.

To assist in the preparation of this study, the USPTO requests comments on the range of topics which could potentially be considered therein. The USPTO is interested in comments that the public has regarding these and other related fee issues that the respondent believes to be appropriate. The USPTO encourages interested persons to respond to this notice by submitting written data, views, or arguments regarding specific topics to be incorporated into this study. In particular, the USPTO is interested in any comments directed toward the questions posed below. Comments received will be relied upon heavily in the study submitted in response to the legislative requirement stated above, and also in assessments expected to be carried out subsequently.

1. Background and Purpose

The current patent fee structure of the United States Patent and Trademark Office is based on three major categories: (1) Patent statutory fees; (2) patent non-statutory fees; and (3) Patent Cooperation Treaty (PCT) fees.

Patent statutory fees consist of the patent processing fees (*i.e.*, filing, issue, and maintenance fees) and PCT national stage application fees that were set by statute in Public Law 97–247 and Public Law 102–204 (35 U.S.C. 41(a) and (b)). Public Law 97–247 also provided for a 50 percent reduction of these fees for small entities—individual inventors, small businesses and non-profit organizations (35 U.S.C. 41(h)). This reduction remains in force today.

Patent non-statutory fees consist of all other patent processing fees, as well as fees for products and services related to patents. The Director must establish these fees to recover the average cost to the Office of providing the products and services (35 U.S.C. 41(d)). However, the following three patent service fees are set by statute: the fee for assigning a patent, the fee for a copy of a patent, and the fee for making photocopies of patent-related material.

Patent Cooperation Treaty fees (except for those fee amounts set by the World Intellectual Property Organization in accordance with the Treaty) are set by the Director to recover the average cost to the Office for processing applications under the Treaty (35 U.S.C. 41(d) and 376(a)).

The current fee structure has evolved from a growing recognition beginning in the late 1970s that the USPTO should be self-financing. Public Law 96–517, 94 Stat. 3018, Section 3, 35 U.S.C. 42, enacted on December 12, 1980, entirely revised the patent fee system by giving the Director the power to establish fees. As introduced, the bill provided that the fee recovery level would be revised yearly to generate 60 percent of the revenue needed to operate the Office. However, in response to criticism from small businesses and individual inventors that the fees would place too great a burden on them, the Congress reduced the cost recovery level for small entities to 50 percent of the revenue needed.

In order to further soften the impact on inventors, Public Law 96–517 stated that patent fees were to be paid in installments over the life of a patent. This system, known as maintenance fees, is used by the European Patent Office and most European member countries, and Japan, as well as many developing countries and has the advantage of deferring payment until the invention begins to return revenue to the inventor. Should the invention prove to have no commercial value, the inventor has the option of permitting the patent to expire, thus avoiding all further fees.

Public Law 97–247, enacted on August 27, 1982, further reduced fee burdens on small entities (individual inventors, small businesses and non-profit organizations) by reducing patent statutory fees by 50 percent for them. Later, in November 1990, with the enactment of the Omnibus Budget Reconciliation Act, Public Law 101–508, 104 Stat. 1388–391, 35 U.S.C. 41, the USPTO became fully fee-funded, but retained the 50 percent fee reduction for small entities.

Fee Issues

In accordance with the intent of Congress, the USPTO wishes to determine what, if any, changes should be made to the USPTO's fees to encourage maximum participation in the patent system by the inventor community and still meet the legislative requirement to fund patent operations fully out of user fees. In so doing, the USPTO seeks comments on the following issues as well as any others that might be deemed relevant.

A. Cost Recovery

OMB Circular A–25 establishes agency guidelines for assessing user charges to the general public and requires full cost recovery through accurate fees consistent with statute. A May 1997 GAO Report on Intellectual Property focused on USPTO's inability to match costs with fee revenues and thereby satisfy A–25 requirements. Since that time, the USPTO has developed an activity-based costing system that is used to prepare financial statements, make decisions regarding fee amounts, formulate budgets, and for other financial management purposes. For instance, today it is possible to consider fee differentiation by degree of examination complexity or other patent characteristics affecting the average costs of different aggregate classes of applications. To what extent should the USPTO rely upon actual average costs in designing fees and fee structures? Should some existing fees be subdivided; *e.g.,* should search and examination fees be charged separately from application fees? Should the examination fee be scaled based on the cost of prosecuting the application? At what point(s) during the application process and/or during an issued patent term (through maintenance fees, for example), should fees be charged?

B. Maintenance Fees

Although required by statute since 1982, maintenance fees continue to be criticized by some inventors. They view these fees as a tax on their right to control their inventions over the entire patent term and want them totally eliminated. Others favor almost a converse approach to maintenance fees. They point out that the maintenance fee concept was originally adopted to provide patent holders flexibility in the face of uncertainty before the fact as to whether or not the patent would be commercially viable. Instead of requiring the entire investment up front, owners were given the option to pay out gradually and relinquish their patent rights when that made economic sense. They further point out that the current structure requiring payment of maintenance fees at 3.5, 7.5, and 11.5 years after issue is not tied to specific milestones in the patent life cycle and, thus, the USPTO should provide additional flexibility by making maintenance fees payable annually over the entire term of the patent. What is the proper role of maintenance fees in the patent fee structure?

C. Small Entity Fees

Small entities have paid reduced fees since 1982. Major small entity fees are half of those charged to large entities, as determined legislatively. This fee reduction represents an advantage to certain inventors, and elimination of these reductions would appear to be a possible alternative fee structure adjustment. Should preferential treatment for small entities be eliminated? On the other hand, it can be argued that the current 50 percent reduction does not go far enough. The current fee structure provides a 50 percent reduction to the major patent fees (*e.g.,* filing, issue, maintenance) paid by all small entities equally: small businesses; non-profits; and independent inventors. However, some believe that independent inventors are more innovative than the other small entities and, at the same time, are more sensitive to cost factors. Lower costs associated with innovation would permit independent inventors to exercise their innovativeness more fully, to the overall benefit of the economy. This argument implies that this group should be paying fee amounts that are reduced to an even greater extent than is currently done for small entities; that is, a new fee category should be created for independent inventors and extremely small (micro) entities. How should the patent fee structure define and treat small entities?

D. Electronic Filing

The USPTO has the achievement of a totally electronic system for receiving applications as one of its major goals. In order to create incentives for customers to file electronically, it has been suggested that the fee structure charge more for paper applications, which are more costly to process. Should the patent and trademark fee structures differentiate between electronic and paper filings? If such a differentiation is determined to be an effective means of encouraging electronic filing, should it be imposed immediately or phased in over a period of years?

E. Unity of Invention

The European Patent Office, Japanese Patent Office, and USPTO reached a Trilateral agreement on harmonizing unity of invention practice at the Sixth Annual Trilateral Conference held in Tokyo in 1988. The Trilateral agreement allows a patent application to include a group of inventions so linked as to form a single general inventive concept, termed unity of invention. This agreement, adopted for PCT practice, differs substantially from current U.S. restriction practice. While this is not primarily a fee structure issue, full adoption of unity of invention would mean that more inventions are contained in fewer applications, with a resultant increase in average examination costs per application. Under the current fee structure, this would significantly reduce revenue from application, issue, and maintenance fees and thereby necessitate an increase in these or other fee amounts. If unity of invention were adopted, how should the resulting excess of costs over revenue be recovered through the fee structure? For example, it is believed that within certain technology areas, the number of patent applications and issues and their associated fee revenue would decline substantially, although the examination workload would not change. Should such technologies bear the burden of resulting fee increases or should the excess cost increment be apportioned uniformly?

In light of the substantial fee level adjustments that unity of invention would require, what are its precise benefits to the inventor community?

Dated: September 26, 2000.

Q. Todd Dickinson,

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

[FR Doc. 00–25225 Filed 9–29–00; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–16]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–16 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: September 26, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.