Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Kate Swails, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 13599 is requested under the authority of 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. 13599, issued on December 16, 2008 (73 FR 78724), authorizes the permit holder to receive, import, export, transfer, archive, and conduct analyses of marine mammal and endangered species parts. Species include all cetaceans, pinnipeds (except for walrus), sea turtles (in the water), smalltooth sawfish (*Pristis pectinata*), shortnose sturgeon (*Acipenser brevirostrum*) and white abalone (*Haliotis sorenseni*).

The permit holder is requesting the permit be amended to include additional species under NMFS jurisdiction including Chinook (*Oncorhynchus tshawytscha*), chum (*Oncorhynchus keta*), coho (*Oncorhynchus kisutch*) and sockeye (*Oncorhynchus nerka*) salmon, steelhead trout (*Oncorhynchus mykiss*), green (*Acipenser medirostris*) and Gulf (*Acipenser oxyrinchus desotoi*) sturgeon, totoaba (*Totoaba macdonaldi*), and black abalone (*Haliotis cracherodii*).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: May 19, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–12561 Filed 5–24–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Response to Comments on the Second Round of Nominated Sites to the National System of MPAs

AGENCY: NOAA, Department of Commerce (DOC).

ACTION: Notice of updates to the List of National System Marine Protected Areas (MPAs) and response to comments on nominations of existing MPAs to the national system.

SUMMARY: NOAA and the Department of the Interior (DOI) invited federal, state, commonwealth, and territorial MPA programs with potentially eligible existing MPAs to nominate their sites to the national system of MPAs (national system). This was the second round of nominations, following the nomination of 225 sites in the initial round of nominations, completed in April 2009. For the second round, a total of 32 nominations were received. Following a 45-day public review period, 114 public comments were received by the National Marine Protected Areas Center (MPA Center) and forwarded to the relevant managing agencies. After review of the public comments, managing agencies were asked to make a final determination of sites to nominate to the national system. All the nominations were confirmed by the managing agencies. Finding them to be eligible for the national system, the MPA Center has accepted the nominations for 29 sites and placed them on the List of National System MPAs.

The national system and the nomination process are described in the *Framework for the National System of Marine Protected Areas of the United States of America* (Framework), developed in response to Executive Order 13158 on Marine Protected Areas. The final Framework was published on November 19, 2008, and provides guidance for collaborative efforts among federal, state, commonwealth, territorial, tribal and local governments and stakeholders to develop an effective and well coordinated national system that includes existing MPAs meeting national system criteria as well as new sites that may be established by managing agencies to fill key conservation gaps in important ocean areas.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, NOAA, at 301–713–3100, ext. 136 or via e-mail at *mpa.comments@noaa.gov.* A detailed electronic copy of the List of National System MPAs is available for download at *http://www.mpa.gov.*

SUPPLEMENTARY INFORMATION:

Background on National System

The national system of MPAs is made up of member MPA sites, networks and systems established and managed by federal, state, commonwealth, territorial, tribal and/or local governments that collectively enhance conservation of the nation's natural and cultural marine heritage and represent its diverse ecosystems and resources. Although participating sites continue to be managed independently, national system MPAs also work together at the regional and national levels to achieve common objectives for conserving the nation's important natural and cultural resources, with emphasis on achieving the priority conservation objectives of the Framework. MPAs include sites with a wide range of protection, from multiple use areas to no take reserves where all extractive uses are prohibited. The term MPA refers only to the marine portion of a site (below the mean high tide mark) that may include both terrestrial and marine components.

The national system is a mechanism to foster greater collaboration among participating MPA sites and programs in order to enhance stewardship in the waters of the United States.

The act of joining the national system does not create new MPAs, or create new restrictions for the existing MPAs that become members. In fact, a site must have existing protections of natural and/or cultural resources in place in order to be eligible to join the national system, as well as meet other criteria described in the Framework. However, joining the national system does not establish new regulatory authority or change existing regulations in any way, nor does it require changes affecting the designation process or management of member MPAs. Nor does it bring state, territorial, tribal or local sites under federal authority.

Benefits of joining the national system, which are expected to increase over time as the system matures, include a facilitated means to work with other sites in the MPA's region, and nationally on issues of common conservation concern; fostering greater public and international recognition of U.S. MPAs and the resources they protect; priority in the receipt of available technical and other support for cross-cutting needs; and the opportunity to influence federal and regional ocean conservation and management initiatives (such as Coastal and Marine Spatial Planning, integrated ocean observing systems, systematic monitoring and evaluation, targeted outreach to key user groups, and helping to identify and address MPA research needs). In addition, the national system provides a forum for coordinated regional planning about place-based conservation priorities that does not otherwise exist.

Nomination Process

The Framework describes two major focal areas for building the national system of MPAs—a nomination process to allow existing MPAs that meet the entry criteria to become part of the system and a collaborative regional gap analysis process to identify areas of significance for natural or cultural resources that may merit additional protection through existing federal, state, commonwealth, territorial, tribal or local MPA authorities. The second round of nominations for the national system began on August 6, 2009, when the MPA Center sent a letter to federal, state, commonwealth, and territorial MPA programs inviting them to submit nominations of eligible MPAs to the national system. The deadline for nominations was November 20, 2009. A public comment period was held from December 23, 2009 through February 22, 2010.

There are three entry criteria for existing MPAs to join the national system, plus a fourth for cultural heritage. Sites that meet all pertinent criteria are eligible for the national system.

1. Meets the definition of an MPA as defined in the Framework.

2. Has a management plan (can be site-specific or part of a broader programmatic management plan; must have goals and objectives and call for monitoring or evaluation of those goals and objectives).

3. Contributes to at least one priority conservation objective as listed in the Framework (see below).

4. Cultural heritage MPAs must also conform to criteria for the National Register for Historic Places.

Additional sites not currently meeting the management plan criterion can be evaluated for eligibility to be nominated to the system on a case-by-case basis based on their ability to fill gaps in the national system coverage of the priority conservation objectives and design principles described in the Framework.

The MPA Center used existing information in the MPA Inventory to determine which MPAs meet the first and second criteria. The inventory is online at *http://www.mpa.gov/helpful_resources/inventory.html,* and potentially eligible sites are posted online at *http://mpa.gov/pdf/national-system/allsitesumsheet120408.pdf.* As part of the nomination process, the managing entity for each potentially eligible site is asked to provide information on the third and fourth criteria.

Updates to List of National System MPAs

The following MPAs have been nominated by their managing programs to join the national system of MPAs. Two nominated MPAs, Acadia National Park and Apostle Islands National Lakeshore have requested additional time to consult with stakeholders and tribal governments and are not included in this round of nominations. An additional MPA, the Queen Anne's Revenge Shipwreck site, has withdrawn from the nomination process. The complete List of National System MPAs, which now includes 254 members, is available at *http://www.mpa.gov.*

Federal Marine Protected Areas

National Parks

Buck Island Reef National Monument
Cabrillo National Monument
Canaveral National Seashore
Cape Cod National Seashore
Cape Hatteras National Seashore
Cape Lookout National Seashore
Fire Island National Seashore
Gateway National Recreation Area
Golden Gate National Recreation Area
Indiana Dunes National Lakeshore
Jean Lafitte National Historical Park and Preserve
Kalaupapa National Historical Park
Kaloko-Honokahau National Historical Park
National Park of American Samoa
Olympic National Park
Pictured Rocks National Lakeshore
Salt River Bay National Historical Park and Ecological Preserve
San Juan Islands National Historical Park
Sleeping Bear Dunes National Lakeshore

National Wildlife Refuges

Blackbeard Island National Wildlife Refuge
Harris Neck National Wildlife Refuge
Merritt Island National Wildlife Refuge
Pickney Island National Wildlife Refuge
Tybee National Wildlife Refuge
Wassaw National Wildlife Refuge
Wolf National Wildlife Refuge

Partnership Marine Protected Areas

Jobos Bay National Estuarine Research Reserve (Puerto Rico)

State Marine Protected Areas

Virgin Islands

East End Marine Park

Washington

San Juan County/Cypress Island Marine Biological Preserve

Response to Public Comments

On January 7, 2010, NOAA and DOI (agencies) published the Nomination of Existing Marine Protected Areas (MPAs) to the National System of Marine Protected Areas for public comment, for the nomination of 32 existing MPAs. By the end of the 45-day comment period, 114 individual submissions had been received from a variety of state and tribal government agencies, non-governmental organizations, industry and conservation interests, advisory groups and the public. Given the breadth and multi-faceted nature of comments and recommendations received, related comments have been grouped below into categories to simplify responses. For each of the comment categories listed below, a summary of comments is provided, and a corresponding response provides an explanation and rationale about changes that were or were not made in the official List of National System Marine Protected Areas (MPAs) for this second round of nominated sites.

Comment Category 1: Purpose and Scope of National System
Comment Category 2: Concerns with Restrictions on Use, Access and Associated Economic and Cultural Impacts
Comment Category 3: Concerns about Designating an Area as an MPA
Comment Category 4: Benefits of Joining the National System
Comment Category 5: Support for Nomination of Specific Sites to National System
Comment Category 6: Nominating Additional Sites
Comment Category 7: Questioning Eligibility of Specific Sites for the National System, the Definition of "Marine" and the Mean High Tide Mark
Comment Category 8: Gap Analysis
Comment Category 9: Stakeholder Engagement
Comment Category 10: Tribal Issues

Comments and Responses

Comment Category 1: Purpose and Scope of National System

A few comments called for more clarity about the purpose and vision of the national system. One respondent asked if the national system of MPAs could assist in specific local coastal issues (*e.g.,* coastal erosion).

Response:

The purpose of the national system is to support the effective stewardship, conservation, restoration, sustainable use, and public understanding and appreciation of the nation's significant natural and cultural marine resources. The national system works across all levels of government to address problems that extend beyond the boundaries of a single MPA. Decisions

about national system priorities consider the interests of and implications for all who use, benefit from, and care about our marine environment.

While the national system is concerned with local coastal and ocean issues, due to the national scope of the system and limited resources, the national system does not focus on issues particular to one site but rather focuses on strengthening and coordinating MPAs and MPA programs.

The purpose and scope of the national system, and plans for its implementation were developed with extensive stakeholder engagement from 2004 through 2008. During this period, the *Framework for the National System of Marine Protected Areas of the United States of America* (Framework) was developed. Three separate public comment periods on the document were held and announced in the **Federal Register** and through other means. In addition, the National Marine Protected Areas Center (MPA Center) held numerous meetings with stakeholders to obtain input on the Framework, and worked closely with the Marine Protected Areas Federal Advisory Committee (MPA FAC) in open meetings on key concepts that were incorporated into the document. The final Framework document was published in November 2008.

Comment Category 2: Concerns with Restrictions on Use, Access, and Associated Economic and Cultural Impacts

Summary:

Most comments expressed concerns that the inclusion of a site in the national system will limit access to an area, and in particular will impose additional restrictions on recreational fishing or boating, commercial fishing or coastal industry. Several other comments expressed concern that the inclusion of a site in the national system would adversely affect the economic or cultural well being of local communities.

Response:

As noted above, the purpose of the national system is to coordinate MPA agencies to support the conservation and management of marine resources. It is not intended to, nor does it have the authority to, impose new restrictions on access or use. Under Executive Order 13158, "this national system framework and the work of the MPA Center is intended to support, not interfere with, agencies' independent exercise of their own existing authorities."

MPAs will continue to be established, managed, regulated and revised under each site's existing federal, state, commonwealth, territorial, tribal or local authorities and their associated legal processes. Decisions about restrictions on access and use of an MPA will continue to be made by its managing agency in accordance with the authority under which the MPA was created and the goals and objectives of the MPA. Two hundred and twenty five existing MPAs, approximately half federal and half state sites, joined the National System in early 2009 and none have revised their regulations as a result of this action.

The inclusion of an MPA into the national system in no way "federalizes" any state or local areas included within the system. Further, the inclusion of a site in the national system of MPAs will have no adverse impact on the economic or cultural aspects of a specific locale. However, it does serve to highlight the importance of that site's natural and cultural resources which contribute greatly to state and local cultural heritage and economic values. By contributing to the priority conservation objectives in the Framework, each site receives recognition for sustaining the natural and cultural resources on which local communities and the nation depend for recreational opportunities, their livelihood and their cultural heritage.

Several comments cited data from the MPA Inventory on restrictions on commercial and/or recreational fishing, believing these to be newly proposed regulations as part of the nomination process to the national system. This is not the case. The MPA Inventory summarizes existing characteristics of U.S. MPAs, including *existing* regulations on fishing, public access, and other uses or activities. This information in the Inventory does not indicate that additional restrictions are being proposed for any site nominated to the national system.

Comment Category 3: Concerns about Designating an Area as an MPA

Summary:

Many comments were concerned that inclusion in the national system of MPAs would designate a particular site as an MPA.

Response:

A site must *already* meet the definition of an MPA as defined by the *Framework for the National System of Marine Protected Areas of the United States of America* in order to be nominated to the national system. Many commenters appeared to assume that the term "MPA" refers to a fully protected marine reserve or highly restricted site. In fact, an MPA is defined by Executive Order 13158 as "*Any area of the marine environment that has been reserved by federal, state, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein*." Most MPAs in the United States allow multiple uses such as recreational and commercial fishing. Inclusion in the national system does not change how the site's resources are managed or uses are regulated, including regulation of fishing.

Comment Category 4: Benefits of Joining the National System

Summary:

Several comments noted that while inclusion of a site does not impose additional restrictions, they saw no benefit to joining the national system either.

Response:

The national system provides benefits to the nation, to participating MPAs, and to ocean stakeholders. Benefits to joining the national system include, among others:

- Enhancing stewardship through better coordination on regional and national scales, improved public awareness, and enhanced site management capacity;
- Building partnerships for MPAs to work together toward common conservation objectives;
- Increasing support for marine conservation through the recognition provided by the national system;
- Priority access to resources available for capacity building and stewardship improvements;
- Protecting representative ecosystems and resources from all the nation's ecosystem and habitat types; and
- Providing a transparent process for future MPA planning that is science-based and includes a commitment to balanced stakeholder involvement.

These benefits will enhance conservation and values of resources in MPAs over time as implementation of the national system moves forward.

Comment Category 5: Support for Nomination of Specific Sites to National System

Summary:

Several comments supported the nomination of specific sites to the national system. They noted the significant ecological and cultural value of the areas, and added that the participation of these sites in the national system will lead to a strengthening of their conservation efforts, as well as enhancing the national system.

Response:

These comments support the goals of Executive Order 13158, which directs NOAA, DOI and other federal agencies

to sustain the ecological, cultural and economic values of the nation's ocean and Great Lakes resources, by establishing the national system. Managing agencies are responsible for nominating their individual sites. Comments that support the nominations of sites to the national system were forwarded to the appropriate managing agencies.

Comment Category 6: Nominating Additional Sites

Summary:

One comment recommended additional National Parks to be included in the third round of nominations to the national system of MPAs.

Response:

Sites must be nominated by the site's managing agency. This comment was forwarded to the National Park Service for their consideration in subsequent nomination phases.

Comment Category 7: Questioning Eligibility of Specific Sites for the National System, the Definition of "Marine" and the Mean High Tide Mark

Summary:

Several comments questioned the eligibility of sites for inclusion in the national system. Some eligibility concerns included whether or not sites met the definition of "marine" and whether a site should be included in the national system if the area's boundary extends only to the mean low water mark. One comment noted the importance of terrestrial habitats to marine species, such as turtles and wading birds, and asked that the definition of "marine" be revised to more adequately protect these species.

Response:

According to the *Framework for the National System of Marine Protected Areas of the United States of America* (Framework), a site is eligible for inclusion in the national system if the site: (1) Meets the definition of an MPA as defined in the Framework; (2) has a management plan (can be site-specific or part of a broader programmatic management plan); (3) contributes to at least one priority conservation objective as listed in the Framework; and (4) meets additional criteria for cultural heritage MPAs (conforming to criteria for the National Register for Historic Places).

Only the "marine" portion of a site is eligible for inclusion in the national system. According to the Framework, to be marine, a site "must be: (a) Ocean or coastal waters (coastal waters may include intertidal areas, bays or estuaries); (b) an area of the Great Lakes or their connecting waters; (c) an area of submerged lands under ocean or coastal waters or the Great Lakes or their connecting waters; or (d) a combination of the above. The term "intertidal" is understood to mean the shore zone between the mean low water and mean high water marks. An MPA may be a marine component part of a larger site that includes uplands. However, the terrestrial portion is not considered an MPA."

NOAA and DOI recognize the critical importance of areas above the high tide mark to marine species, resources, and ecosystem processes. Examples of such areas include turtle nesting beaches and seabird rookeries. The agencies have requested the Marine Protected Areas Federal Advisory Committee to develop recommendations about how to address this issue during their 2010–2011 sessions.

All sites nominated to the national system have geographic information system (GIS) boundaries available to the public through the MPA Inventory on the *http://www.mpa.gov* Web site. In addition, the MPA Center has recently developed an interactive MPA mapping tool on the above Web site to make MPA boundary information easily viewable by the general public without GIS expertise.

Comment Category 8: Gap Analysis

Summary:

One comment noted support for the planned MPA gap analysis process to identify marine areas in need of greater protection.

Response:

The regional gap analysis process described in the Framework will identify areas in the marine environment that contribute to the priority conservation objectives of the national system, including resources currently represented in marine protected areas. This process will complement the nominations of existing sites to the National System of MPAs by providing information on resources currently under management by MPA management agencies, as well as areas that may be in need of additional protection. NOAA and DOI are currently developing plans for the gap analysis process that will also support emerging information needs for Coastal and Marine Spatial Planning activities.

Comment Category 9: Stakeholder Engagement

Summary:

Some comments were concerned that the stakeholder process did not provide enough information and time to allow for informed response to nominations.

Response:

NOAA and DOI are committed to stakeholder engagement as an essential component of the national system. The MPA Center continues to work with and solicit input from federal, state, commonwealth, territorial, tribal, and local government partners, Fishery Management Councils, Advisory Committees, stakeholder groups, and the general public about their perspectives on the national system. The Center has limited resources that cannot support extensive stakeholder consultation at the local and regional levels, but is working with its partners and the managing agencies to reach out to local communities to address questions and uncertainties they may have related to the national system. The majority of comments opposed to the proposed nominations relate to concerns about potential restrictions on fishing or prohibitions on access to marine areas, and possible impacts from such restrictions. The MPA Center will continue to clarify for the public and local communities that nomination to the national system does not impose additional restrictions or propose additional regulatory authority to restrict uses of marine resources.

The national system nomination process is transparent. All nominated sites were published in the **Federal Register**, and the general public was invited to provide public comment on all sites nominated for inclusion in the national system in a 45-day public comment period. In addition, the MPA Center used the mpa.gov web site, newsletters, listserves, and other communication mechanisms to ensure the widest possible outreach to the public. The MPA Center then forwarded all public comment to the MPA managing entity. Because no comment asked for an extension of the comment period, we believe the 45-day comment period provided adequate time to gather more information.

Comment Category 10: Tribal Issues

Summary: Two comments focused on the need to ensure that the inclusion of MPAs in the national system does not infringe upon Tribal treaty rights. One comment noted that the Tribe supported the nomination of a local MPA with the recognition that the Tribe will continue to rely upon its usual and accustomed areas within the MPA for economic and subsistence activities. Another comment requested a formal government to government consultation on the nomination of the Apostle Islands National Lakeshore. This nomination is not included in the current round in order to provide additional time for the requested tribal consultation.

Response:

Executive Order 13158 states that "This order does not diminish, affect, or abrogate Indian treaty rights or United States trust responsibilities to Indian

tribes." NOAA and DOI are committed to consultations with tribes as part of the national system development process.

Addendum: From "Framework for the National System of Marine Protected Areas of the United States" National System Goals and Priority Conservation Objectives

Goal 1: For Natural Heritage Marine Resources—Advance comprehensive conservation and management of the nation's biological communities, habitats, ecosystems, and processes and the ecological services, uses, and values they provide to present and future generations through ecosystem-based MPA approaches.

Priority Conservation Objectives for Goal 1—Conserve and manage:

- Key reproduction areas and nursery grounds
- Key biogenic habitats
- Areas of high species and/or habitat diversity
- Ecologically important geological features and enduring/recurring oceanographic features
- Critical habitat of threatened and endangered species
- Unique or rare species, habitats and associated communities
- Key areas for migratory species
- Linked areas important to life histories
- Key areas that provide compatible opportunities for education and research

Goal 2: For Cultural Heritage Marine Resources—Advance comprehensive conservation and management of cultural resources that reflect the nation's maritime history and traditional cultural connections to the sea, as well as the uses and values they provide to present and future generations through ecosystem-based MPA approaches.

Priority Conservation Objectives for Goal 2—Conserve and manage:

- Key cultural and historic resources listed on the National Register of Historic Places (NRHP)
- Key cultural and historic resources determined eligible for the NRHP or listed on a State Register
- Key cultural sites that are paramount to a culture's identity and/or survival
- Key cultural and historic sites that may be threatened
- Key cultural and historic sites that can be utilized for heritage tourism
- Key cultural and historic sites that are underrepresented

Goal 3: For Sustainable Production Marine Resources—Advance comprehensive conservation and management of the nation's renewable living resources and their habitats (including, but not limited to, spawning, mating, and nursery grounds and areas established to minimize bycatch of species) and the social, cultural, and economic values and services they provide to present and future generations through ecosystem-based MPA approaches.

Priority Conservation Objectives for Goal 3—Conserve and manage:

- Key reproduction areas, including larval sources and nursery grounds
- Key areas that sustain or restore high-priority fishing grounds
- Key areas for maintaining natural age/sex structure of important harvestable species
- Key foraging grounds
- Key areas that mitigate the impacts of bycatch
- Key areas that provide compatible opportunities for education and research

Dated: May 17, 2010.

Donna Wieting,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 2010–12452 Filed 5–24–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2010–0046]

Streamlined Procedure for Appeal Brief Review in Ex Parte Reexamination Proceedings

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is streamlining the procedure for the review of appeal briefs in *ex parte* reexamination proceeding appeals to increase the efficiency of the appeal process and reduce pendency of appeals. The Chief Judge of the Board of Patent Appeals and Interferences (BPAI) or his designee (collectively, "Chief Judge"), will have the sole responsibility for determining whether appeal briefs filed in *ex parte* reexamination proceeding appeals comply with the applicable regulations, and will complete the determination before the appeal brief is forwarded to the examiner for consideration. The examiner will no longer review appeal briefs for compliance with the applicable regulations. The USPTO expects to achieve a reduction in *ex parte* reexamination proceeding appeal pendency as measured from the filing of a notice of appeal to docketing of the appeal by eliminating duplicate reviews by the examiner and the BPAI. We are expecting further reduction in pendency because the streamlined procedure will increase consistency in the determination, and thereby reduce the number of notices of noncompliant appeal brief and non-substantive returns from the BPAI that require appellants to file corrected appeal briefs in *ex parte* reexamination proceeding appeals.

DATES: *Effective Date:* The procedures set forth in this notice are effective on May 25, 2010.

Applicability Date: The appeal brief review procedure set forth in this notice is applicable to appeal briefs filed in *ex parte* reexamination proceedings on or after May 25, 2010.

FOR FURTHER INFORMATION CONTACT: Krista Zele, Case Management Administrator, Board of Patent Appeals and Interferences, by telephone at (571) 272–9797 or by electronic mail at: *BPAI.Review@uspto.gov.*

SUPPLEMENTARY INFORMATION: Under the streamlined procedure for appeal brief review, upon the filing of an appeal brief in *ex parte* reexamination proceeding appeals, the Chief Judge will review the appeal brief to determine whether the appeal brief complies with 37 CFR 41.37 before it is forwarded to the Central Reexamination Unit or other Technology Center examiner for consideration. The Chief Judge will endeavor to complete this determination within one month from the filing of the appeal brief. To assist regular *ex parte* appeal appellants in complying with 37 CFR 41.37, the BPAI has previously posted checklists for notices of appeal and appeal briefs and a list of eight reasons *ex parte* appeal briefs have been held to be noncompliant, on the USPTO Web site at: [*http://www.uspto.gov/ip/boards/bpai/procedures/guidance_noncompliant_briefs.jsp*]. If the appeal brief is determined to be compliant with 37 CFR 41.37, the Chief Judge will accept the appeal brief and forward it to the examiner for consideration. If the Chief Judge determines that the appeal brief is not compliant with 37 CFR 41.37 and sends appellant a notice of noncompliant brief requiring a corrected brief, appellant will be required to file a corrected brief within the time period set forth in the notice to avoid the dismissal of the appeal. *See* 37 CFR 41.37(d). The Chief Judge will also have the sole responsibility for determining whether corrected briefs comply with 37 CFR 41.37, and will address any inquiries and petitions regarding notices of noncompliant briefs.

The Chief Judge's responsibility for determining whether appeal briefs comply with 37 CFR 41.37 is not considered a transfer of jurisdiction when an appeal brief is filed, but rather is only a transfer of the specific responsibility of notifying appellant under 37 CFR 41.37(d) of the reasons for non-compliance. The Patent Examining Corps retains the jurisdiction over the *ex parte* reexamination proceeding to consider the appeal brief, conduct an appeal conference, draft an examiner's answer, and decide the entry of amendments, evidence, and information