SUPPLEMENTARY INFORMATION: The Shrimp AP will convene to review a revision to Draft Amendment 11 to the Shrimp Fishery Management Plan (FMP) that provides revised alternatives for registrations of shrimp craft and additional analyses of impacts of permitting and registration alternatives. The Shrimp AP will also review an Options Paper for Amendment 10 to the Shrimp FMP that includes alternatives for additional bycatch measures in the Gulf. Finally, the Shrimp AP will receive reports from NMFS on the status and health of shrimp stocks in the Gulf and the effects of the 2000 Cooperative Shrimp Closure with the state of Texas. The Shrimp AP may make recommendations for a cooperative closure with Texas for 2001.

The Shrimp AP consists principally of commercial shrimp fishermen, dealers, and association representatives.

Although other non-emergency issues not on the agendas may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813-228-2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by January 2, 2001.

Dated: December 14, 2000.

Richard W. Surdi,

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

[FR Doc. 00–32423 Filed 12–19–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121500A]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council will convene a public meeting of its precious corals plan team to discuss Council issues in relation to precious coral quotas in the Hawaiian Exploratory Area.

DATES: The meeting will be held January 5, 2001, from 9–11 a.m.

ADDRESSES: The meeting will be held at the Western Pacific Fishery Management Council office conference room, telephone (808) 522–8220.

Council Address: Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone (808) 522–8220.

SUPPLEMENTARY INFORMATION: The Plan Team will discuss and may make recommendations to the Council on the agenda items below. The order in which the agenda items will be addressed is tentative. The agenda will be as follows:

A. Introduction

B. Review of the 107th Council Meeting

C. Estimation of gold coral growth rates

D. Adjustment of the Hawaiian Exploratory Area quota

E. Other Business

F. Summary of Recommendations

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Dated: December 15, 2000.

Richard W. Surdi,

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

[FR Doc. 00–32425 Filed 12–19–00; 8:45 am]

BILLING CODE: 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121200I]

Endangered Species; Permits

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

ACTION: Issuance of incidental take permit No.1269.

SUMMARY: Notice is hereby given that NMFS has issued a permit to Central Hudson Gas & Electric Corporation (CHGE) / Dynegy Danskammer, L.L.C. and Dynegy Roseton, L.L.C. that authorizes, subject to certain conditions set forth therein, take of the Endangered Species Act-listed shortnose sturgeon, incidental to the operation of the Roseton and Danskammer Point power plants on the Hudson River, New York.

ADDRESSES: The application and related documents are available for review in the following office by appointment:

Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 or Protected Resources Division, F/NER3, One Blackburn Dr., Gloucester, MA 01930 (phone: 978-281-9328, fax: 978-281-9394).

FOR FURTHER INFORMATION CONTACT: Donna Brewer, Silver Spring, MD, phone: 301-713-1401; fax: 301-173-0376; e-mail: Donna.Brewer@noaa.gov or Mary Colligan, Gloucester, MA, phone: 978-281-9116; fax: 978-281-9394; e-mail: Mary.A.Colligan@noaa.gov.

SUPPLEMENTARY INFORMATION: The permit was issued under the authority of section 10(a)(1)(B) of the Endangered Species Act of 1973 (ESA)(16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife Permits (50 CFR parts 222-227). Issuance is based on a finding that such permits: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permit; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permit.

The covered activities include the operation of the two power plants on the Hudson River as described in the ''Conservation Plan for the Incidental Take of Shortnose Sturgeon at the Roseton and Danskammer Point Generating Stations'' and in the Environmental Assessment.

The publication on August 9, 2000 (65 FR 48677), notified that an application had been filed by CHGE for a permit to incidentally take endangered shortnose sturgeon from the Hudson River distinct population segment of shortnose sturgeon at the Roseton and Danskammer Point power plants on the Hudson River. CHGE submitted an application including a Conservation Plan (CP) on April 20, 2000. The CP describes measures designed to avoid, minimize, mitigate, and monitor the incidental take of shortnose sturgeon associated with operation of the Roseton and Danskammer Point power plants. The decision to issue a permit for the activities as described in the CP is based on a thorough review of the alternatives and of their environmental consequences. The terms and conditions of this permit ensure that the incidental take of shortnose sturgeon through the operation of Roseton and Danskammer Point power plants will not appreciably reduce the likelihood of the survival and recovery of shortnose sturgeon in the Hudson River.

NMFS staff worked with CHGE during the development of the application. During these discussions, CHGE said that the plants would likely be sold to a new owner. Following submission of the application materials, CHGE notified NMFS that it had entered into an agreement to sell Danskammer and Roseton Power Plants to Dynegy. The only commenter on the draft Conservation Plan (CP), Implementing Agreement (IA) and Environmental Assessment (EA) also was aware of the sale and attached a copy of a press release from CHGE announcing the pending sale to Dynegy. The parties plan to complete the sale by the end of the year. NMFS has now been officially informed by CHGE that the buyer will be Dynegy Danskammer, L.L.C. and Dynegy Roseton, L.L.C. Both CHGE and Dynegy have requested that Dynegy be added as a co-applicant and co-permittee in this permit issuance process, as provided for in NMFS' regulations. As explained in correspondence from CHGE and Dynegy; Dynegy Danskammer, L.L.C. and Dynegy Roseton, L.L.C. are willing to agree to all of the terms and conditions included in the Conservation Plan submitted by CHGE, the IA, and the permit.

Issuance of the permit was based on a finding that CHGE and Dynegy Danskammer, L.L.C. and Dynegy Roseton, L.L.C. had met the permit issuance criteria of 50 CFR 222.307(c). Permit 1269, issued on November 29, 2000, expires on December 31, 2015.

Dated: December 14, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–32422 Filed 12–19–00; 8:45 am]

BILLING CODE: 3510–22–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

RIN 0651–AB29

Standard for Declaring a Patent Interference

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Director of the United States Patent and Trademark Office has discretion to declare an interference involving a patent application. The current standard requires a two-way patentability analysis for the Director to be of the opinion that an interference-in-fact exists. In view of public commentary suggesting that, at least in some cases, a one-way patentability analysis should be sufficient, USPTO provides reasons for the current standard and solicits comments on the propriety of that standard.

DATE: Submit comments on or before January 31, 2001.

ADDRESSES: Send all comments:

1. Electronically to ''*Interference.Rules@uspto.gov*'', Subject: ''Interference-in-fact'';

2. By mail to Director of the United States Patent and Trademark Office, BOX INTERFERENCE, Washington, D.C. 20231, ATTN: ''Interference-in-Fact''; or

3. By facsimile to 703–305–0942, ATTN: ''Interference-in-fact''.

FOR FURTHER INFORMATION CONTACT: Fred E. McKelvey or Richard Torczon at 703–308–9797.

SUPPLEMENTARY INFORMATION: The patent statute provides that ''[w]henever an application is made for a patent which, in the opinion of the Director, would interfere with any pending application, or with any unexpired patent, an interference may be declared * * *'' 35 U.S.C. 135(a). ''It is * * * [the Director] who is to judge (be of opinion) whether an application will interfere with a pending one * * *'' *Ewing* v. *United States ex rel. Fowler Car Co.,* 244 U.S. 1, 11 (1917). The duty imposed upon the Director to declare an interference involves the exercise of judgment upon the facts presented and cannot be controlled by mandamus. *United States ex rel. International Money Machine Co.* v. *Newton,* 47 App. D.C. 449, 450 (1918). A party does not have a right to have the Director declare an interference. *United States ex rel. Troy Laundry Machinery Co.* v. *Robertson,* 6 F.2d 714, 715 (D.C. Cir. 1925). Likewise, a third-party has no right to intervene in the prosecution of a particular patent application to prevent issuance of a patent. *Animal Legal Defense Fund* v. *Quigg,* 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 (Fed. Cir. 1991).

An interference is declared when two parties are claiming the ''same patentable invention.'' 37 CFR 1.601(i). An ''interference-in-fact,'' a term of art in patent law, exists when at least one claim of a first party and at least one claim of a second party define the same patentable invention. 37 CFR 1.601(j). The phrase ''same patentable invention'' is defined as follows at 37 CFR 1.601(n) (emphasis in original):

> Invention ''A'' is *the same patentable invention* as an invention ''B'' when invention ''A'' is the same as (35 U.S.C. 102) or is obvious (35 U.S.C. 103) in view of invention ''B'' assuming invention ''B'' is prior art with respect to invention ''A''. Invention ''A'' is a *separate patentable invention* with respect to invention ''B'' when invention ''A'' is new (35 U.S.C. 102) and non-obvious (35 U.S.C. 103) in view of invention ''B'' assuming invention ''B'' is prior art with respect to invention ''A''.

Recent precedent of the Trial Section of the Interference Division of the Board of Patent Appeals and Interferences confirms that resolution of whether an interference-in-fact exists involves a two-way patentability analysis. *Winter* v. *Fujita,* 53 USPQ2d 1234, 1243 (BPAI 1999), *reh'g denied,* 53 USPQ2d 1478 (BPAI 2000):

> The claimed invention of Party A is presumed to be prior art vis-a-vis Party B and vice versa. The claimed invention of Party A must anticipate or render obvious the claimed invention of Party B *and* the claimed invention of Party B must anticipate or render obvious the claimed invention of Party A. When the two-way analysis is applied, then regardless of who ultimately prevails on the issue of priority, * * * [USPTO] assures itself that it will not issue two patents to the same patentable invention.

The *Winter* v. *Fujita* rationale is consistent with examples set out in the supplemental information accompanying the final rule, Patent