

rule. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment- including your personal identifying information- may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Lynne Barre, Northwest Regional Office, 206-526-4745; or Trevor Spradlin, Office of Protected Resources, 301-713-2322.

SUPPLEMENTARY INFORMATION:

Background

On July 29, 2009, NMFS proposed regulations under the Endangered Species Act and Marine Mammal Protection Act to prohibit vessels from approaching killer whales within 200 yards and from parking in the path of whales for vessels in inland waters of Washington State (74 FR 37674). The proposed regulations would also prohibit vessels from entering a conservation area during a defined season. Certain vessels would be exempt from the prohibitions. The purpose of the action is to protect killer whales from interference and noise associated with vessels. In the final rule announcing the endangered listing of Southern Resident killer whales NMFS identified disturbance and sound associated with vessels as a potential contributing factor in the recent decline of this population. The Recovery Plan for Southern Resident killer whales calls for evaluating current guidelines and assessing the need for regulations and/or protected areas. We developed the proposed rule after considering comments submitted in response to an Advance Notice of Proposed Rulemaking (72 FR 13464; March 22, 2007) and preparing a draft environmental assessment (EA).

Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in the public meetings should contact Lynne Barre (see **FOR FURTHER INFORMATION CONTACT**). To allow sufficient time to process requests, please call at least 5 business days prior to the relevant meeting(s).

Dated: September 11, 2009.

James H. Lecky,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. E9-22414 Filed 9-16-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO-P-2009-0037]

Request for Comments on Interim Examination Instructions for Evaluating Patent Subject Matter Eligibility

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) has prepared interim examination instructions for evaluating patent subject matter eligibility under 35 U.S.C. 101 (Interim Patent Subject Matter Eligibility Examination Instructions) pending a decision by the U.S. Supreme Court in *Bilski v. Kappos*. The Interim Patent Subject Matter Eligibility Examination Instructions will be for use by USPTO personnel in their review of patent applications to determine whether the claims in a patent application are directed to patent eligible subject matter under 35 U.S.C. 101. The USPTO is requesting comments from the public regarding the Interim Patent Subject Matter Eligibility Examination Instructions.

DATES: *Comment Deadline Date:* To be ensured of consideration, written comments must be received on or before September 28, 2009. No public hearing will be held.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to *AB98.Comments@uspto.gov*. Comments may also be submitted by facsimile to (571) 273-0125, marked to the attention of Caroline D. Dennison. Although comments may be submitted by mail or facsimile, the USPTO prefers to receive comments via the Internet.

The comments will be available for public inspection at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the Office Internet Web site (address: *http://www.uspto.gov*). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Caroline D. Dennison, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at 571-272-7729, or by facsimile

transmission to 571-273-0125, marked to the attention of Caroline D. Dennison.

SUPPLEMENTARY INFORMATION: The USPTO has prepared Interim Patent Subject Matter Eligibility Examination Instructions for evaluating patent subject matter eligibility under 35 U.S.C. 101. The Interim Patent Subject Matter Eligibility Examination Instructions are based on the USPTO's current understanding of the law and are believed to be fully consistent with binding precedent of the U.S. Supreme Court, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) and the Federal Circuit's predecessor courts. The USPTO posted the Interim Patent Subject Matter Eligibility Examination Instructions on its Internet Web site (*http://www.uspto.gov*) on August 27, 2009, with a notice requesting public comment on the Interim Patent Subject Matter Eligibility Examination Instructions and indicating that written comments must be received on or before September 28, 2009, to be ensured of consideration.

The Interim Patent Subject Matter Eligibility Examination Instructions do not constitute substantive rule making and hence do not have the force and effect of law. Rejections are and will continue to be based upon the substantive law, and it is these rejections that are appealable. Consequently, any perceived failure by USPTO personnel to follow the Interim Patent Subject Matter Eligibility Examination Instructions is neither appealable nor petitionable.

The U.S. Supreme Court granted certiorari in *Bilski*, S.Ct. No. 08-964. See 556 U.S. ___ (June 1, 2009). The USPTO expects that a decision in *Bilski* will be rendered sometime before the end of June 2010. The Interim Patent Subject Matter Eligibility Examination Instructions are to provide instructions to examiners pending a final decision from the Supreme Court in *Bilski*. Following the Supreme Court's decision in *Bilski*, the USPTO will revise its examination instructions for evaluating patent subject matter eligibility under 35 U.S.C. 101 for consistency with the Supreme Court's decision.

The Interim Patent Subject Matter Eligibility Examination Instructions merely revise USPTO examination practice for consistency with the USPTO's current understanding of the case law regarding patent subject matter eligibility under 35 U.S.C. 101. Therefore, the Interim Patent Subject Matter Eligibility Examination Instructions relate only to interpretative rules, general statements of policy, or rules of agency organization, procedure,

or practice. The USPTO is providing this opportunity for public comment because the USPTO desires the benefit of public comment on the Interim Patent Subject Matter Eligibility Examination Instructions; however, notice and an opportunity for public comment are not required under 5 U.S.C. 553(b) or any other law. *See Cooper Techs. Co. v. Dudas*, 536 F.3d 1330, 1336–37, 87 U.S.P.Q.2d 1705, 1710 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rule making for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.” (quoting 5 U.S.C. 553(b)(A))). Persons submitting written comments should note that the USPTO may not provide a “comment and response” analysis of such comments as notice and an opportunity for public comment are not required under 5 U.S.C. 553(b) or any other law.

Dated: September 11, 2009.

David J. Kappos,

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

[FR Doc. E9–22420 Filed 9–16–09; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR64

Marine Mammals; File No. 1000–1617

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

ACTION: Notice; withdrawal of application.

SUMMARY: Notice is hereby given that Whitlow Au, PhD, University of Hawaii, Hawaii Institute of Marine Biology, Marine Mammal Research Program, PO Box 1106, Kailua, Hawaii 96734, has withdrawn an application to amend Scientific Research Permit No. 1000–1617–04.

ADDRESSES: The documents related to this action are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach,

CA 90802–4213; phone (562)980–4001; fax (562)980–4018; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)944–2200; fax (808)973–2941.

FOR FURTHER INFORMATION CONTACT:

Kristy Beard or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: On April 16, 2009, a notice was published in the **Federal Register** (74 FR 17635) that Dr. Au had submitted an application to amend Permit No. 1000–1617–04, which authorizes behavioral observations, photo-identification, genetic sampling, and suction-cup tagging of cetaceans in Hawaii and California. The amendment was requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), and the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The applicant has withdrawn his application.

Dated: September 14, 2009.

P. Michael Payne,

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

[FR Doc. E9–22415 Filed 9–16–09; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, September 24, 2009, 2 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East-West Highway, Bethesda, Maryland.

STATUS: Closed to the public.

MATTER TO BE CONSIDERED: Compliance Status Report (Monthly)—Commission Briefing.

The staff will brief the Commission on various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: September 11, 2009.

Todd A. Stevenson,
Secretary.

[FR Doc. E9–22397 Filed 9–16–09; 8:45 am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, September 22, 2009, 2 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED: Compliance Weekly Report—Commission Briefing

The staff will brief the Commission on various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION:

Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: September 11, 2009.

Todd A. Stevenson,
Secretary.

[FR Doc. E9–22396 Filed 9–16–09; 8:45 am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 09–C0036]

K.S. Trading Corporation, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with K.S. Trading Corporation, containing a civil penalty of \$35,000.00.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by October 2, 2009.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 09–C0036, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814–4408.