

country has at one time been considered an NME shall remain in effect until revoked. Therefore, the PRC will continue to be treated as an NME unless and until its NME status is revoked. Pursuant to section 771(18)(C)(i) of the Act, because the PRC's status as an NME remains in effect, the petitioners determined the dumping margin using an NME analysis.

The petitioners assert that India is the most appropriate surrogate country for the PRC, claiming that India is: (1) A market economy; (2) a significant producer of comparable merchandise; and (3) at a level of economic development comparable to that of the PRC in terms of per-capita gross national income. Based on the information provided by the petitioners, we believe that the petitioners' use of India as a surrogate country is appropriate for purposes of initiation of this investigation.

The petitioners valued the factors of production using the quantities of inputs reported by an Indian CTV producer, because public information about PRC factor quantities for production of 27-inch curved-screen and 27-inch flat-screen CTVs was not reasonably available. The factors of production and usage amounts were derived from the actual production records of the Indian surrogate generated for both 27-inch curved-screen and 27-inch flat-screen CTVs during the period October 2002 through March 2003.

Values for color picture tubes, chassis, cabinets, remote controls with tuners, assorted components, and packing materials were based on the actual costs incurred by the Indian CTV manufacturer relied upon for the usage amounts discussed above. Labor was valued using the Department's regression-based wage rate for the PRC, in accordance with 19 CFR 351.408(c)(3). Electricity was valued based upon the 2001–2002 annual report of BPL Display Devices, Ltd., a publicly traded Indian color picture tube producer. All surrogate values that fell outside the anticipated period of investigation, which in the PRC case is October 1, 2002, through March 31, 2003, were adjusted for inflation.

The petitioners based their calculations of factory overhead, SG&A expenses, and profit on the average of the rates reported in the 2001–2002 annual reports of BPL Ltd. ("BPL") and Onida Saka ("Onida"), Indian producers of CTVs, and the 2000–2001 annual report of Videocon International, Ltd. ("Videocon"), a third Indian producer of CTVs. As the annual report of Videocon was less contemporaneous with the POI

than those of BPL and Onida, we revised the calculation of factory overhead, SG&A expenses, and profit to exclude Videocon's data.

Based on the information provided by the petitioners, we believe that the surrogate values represent information reasonably available to the petitioners and are acceptable for purposes of initiation of this investigation. For our complete analysis of NV, see the Initiation Checklist.

The estimated dumping margins in the petition for the PRC based on a comparison of EP to NV are as follows: for 27-inch curved screen CTVs, 50.94 percent; and for 27-inch flat screen CTVs, 80.16 percent. However, based upon comparisons of EP to the adjusted NV, the revised estimated dumping margins are as follows: for 27-inch curved screen CTVs, 49.50 percent; and for 27-inch flat screen CTVs, 78.45 percent.

#### Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of CTVs from Malaysia and the PRC are being, or are likely to be, sold at less than fair value.

#### Allegations and Evidence of Material Injury and Causation

With regard to both Malaysia and the PRC, the petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV.

The petitioners contend that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, profit-to-sales ratios, production employment, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Bureau of Customs and Border Protection import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See the Initiation Checklist.

#### Initiation of Antidumping Investigations

Based upon our examination of the petitions on CTVs, we have found that they meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether

imports of CTVs from Malaysia and the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Act, we will make our preliminary determinations no later than 140 days after the date of this initiation.

#### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of the governments of Malaysia and the PRC. We will attempt to provide a copy of the public version of each petition to each exporter named in the petitions, as provided for under 19 CFR 351.203(c)(2).

#### ITC Notification

We have notified the ITC of our initiations as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine no later than June 16, 2003, whether there is a reasonable indication that imports of CTV's from Malaysia and the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for either country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: May 22, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 012303A]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Port of Miami Construction Project (Phase II)

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

**ACTION:** Notice of issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with provisions of the Marine Mammal Protection Act (MMPA), notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the U.S. Army Corps of Engineers-Jacksonville District (Corps) to take small numbers of bottlenose dolphins (*Tursiops truncatus*), by harassment, incidental to deepening the Dodge-Lummu Island Turning Basin in Miami, FL (Turning Basin).

**DATES:** This authorization is effective from May 22, 2003, through May 22, 2004.

**ADDRESSES:** A copy of the application may be obtained by writing to Kimberly Skrupky, Office of Protected Species, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Md 20910, or by telephoning the contact listed here.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, NMFS, (301) 713-2322, ext 128.

**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 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) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

NMFS has found that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings 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.

Subsection 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. 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"].

Subsection 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 small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

On June 24, 2002, NMFS received a request from the Corps for an IHA to take bottlenose dolphins, by harassment, incidental to deepening the Turning Basin in the Port of Miami, south of Dodge-Lummu Island. The Corps has formulated equations for confined charges, based on the Navy Diver Formula, to determine zone radii for three zones:

Caution Zone Radius =  $260(\text{lbs explosives/delay})^{1/3}$

Safety Zone Radius =  $520(\text{lbs explosives/delay})^{1/3}$

Watch Zone Radius =  $3(260(\text{lbs explosives})/1/3)$

The Caution Zone is the radius from an open-water blast where mortality will not occur. Detonation will not occur if a marine mammal is known to be within this area. The Safety Zone is the radius from an open-water blast where injury will not occur. The Watch Zone is three times the Caution Zone where observers will conduct a watch before and after the detonation.

A notice of receipt of the application and proposed authorization was published on February 6, 2003 (68 FR 6116). That notice described the activity and anticipated effects on marine mammals. NMFS received one comment letter from the Marine Mammal Commission (Commission) on the application and proposed authorization.

*Comment 1:* The Commission agrees that, unless animals are close to the source or exposure is frequent, the actions are negligible. They note, however, that it would be useful if NMFS or the applicant conducted pre- and post- blast surveys, and monitored and mapped the distribution of high-intensity sound resulting from the shallow-water blasts.

*Response:* NMFS recognizes that while acoustic measurements would be helpful, they too expensive relative to this single blasting project. Surveys will be conducted both prior to and post-

blasting. A marine mammal watch will be conducted by no less than 2 qualified observers from a small watercraft at for at least 30 minutes before and after the time of each detonation, in the watch zone calculated for an open water blast.

*Comment 2:* Survey data may be available concerning the numbers of dolphins and other marine mammals in, and their use of, the Dodge-Lummu Island Turning Basin area. If so, they should be provided to NMFS. If not, NMFS may want to require that the applicant conduct such surveys prior to initiating the proposed activities.

*Response:* The Corps provided information regarding a survey conducted by the NMFS, Southeast Fisheries Science Center, Miami Laboratory. NMFS has been conducting a photo-identification survey of the dolphins in Biscayne Bay since 1990. The study area encompasses an area of approximately 200 mi<sup>2</sup>. This study area ranged from Haulover Inlet south to the Card Sound Bridge behind Key Largo. The study has identified 159 individual animals residing in Biscayne Bay, 146 of which have been resighted on at least one additional time. Many of these animals have been sighted within or transiting through the Port of Miami. Population studies conducted by the Southeast Fisheries Science Center have found that the size of the subpopulation of bottlenose dolphins in Biscayne averages between 78 and 92 individuals (Joe Contillo, pers. com. May 5, 2003).

*Comment 3:* NMFS should advise the Corps that manatees have been observed in this area. If there is the potential that manatees will also be taken incidental to the proposed activities, authorization for such taking would be needed from the U.S. Fish and Wildlife Service.

*Response:* The Corps completed consultation with the USFWS for this project on June 19, 2002. The USFWS concurred with the Corps that activities associated with the Corps' dredging project in the D-L-I Turning Basin were not likely to adversely affect listed species.

*Comment 4:* An across-the-board definition of temporary threshold shift (TTS) as constituting no more than Level B harassment inappropriately dismisses possible injury and biologically significant behavioral effects (e.g., an increased risk of natural predation or ship strikes) that can result from repeated TTS harassment and from the cumulative effects of long-term exposure. The Commission therefore reiterated its recommendation that TTS be considered as having the potential to injure marine mammals (i.e., Level A harassment).

*Response:* NMFS has addressed the concern of the definition of TTS in previous small take authorizations (66 FR 22450, May 4, 2001; 67 FR 46712, July 16, 2002). These authorizations state that the best scientific information available supports NMFS' determination that TTS results in Level B harassment, rather than Level A harassment. Because TTS is unlikely to occur in bottlenose dolphins from this project (due to mitigation and monitoring discussed in this document), additional discussion is not warranted at this time.

#### Mitigation and Monitoring

NMFS is requiring the Corps to implement mitigation measures and a monitoring program that will establish caution-zone radii to ensure that bottlenose dolphins will not be injured during blasting and that impacts will be at the lowest level practicable. Mitigation measures include: (1) confining the explosives in a hole with drill patterns restricted to a minimum of 8 ft (2.44 m) separation from any other loaded hole; (2) restricting the hours of detonation from 2 hours after sunrise to 1 hr before sunset to ensure adequate observation of marine mammals and sea turtles in the safety zone; (3) staggering the detonation for each explosive hole in order to spread the explosive's total overpressure over time, which in turn will reduce the caution zone radius; (4) capping the hole containing explosives with rock in order to reduce the outward potential of the blast, thereby reducing the chance of injuring a dolphin or sea turtle; (5) matching, to the extent possible, the energy needed in the "work effort" of the borehole to the rock mass to minimize excess energy vented into the water column; and (6) conducting a marine mammal/sea turtle watch with no less than two qualified observers from a small water craft and/or an elevated platform on the explosives barge, for at least 30 minutes before and for 30 minutes after each detonation to ensure that there are no dolphins or sea turtles in the area at the time of detonation. The observer monitoring program will take place in the watch zone. Any marine mammal in the caution zone or the watch zone will not be forced to move out of those zones by human intervention. Detonation shall not occur until the animal moves out of the caution zone on its own volition.

In the unlikely event a marine mammal or marine turtle is injured or killed during blasting, the Contractor shall notify the Corps and the NMFS Regional Office within 48 hours. In addition, the Contractor will also notify the Florida Marine Patrol and the USFWS in Vero Beach.

#### Reporting

The Corps anticipates completing the proposed activities within 24 months of the start date. Therefore, NMFS is issuing a 1-year IHA with the possibility for renewal upon application from the Corps. NMFS requires the Corps to submit a report of activities 120 days before the expiration of the proposed IHA if the Corps plans to request a renewal of its IHA, or 120 days after the expiration of the IHA if a renewal is not being requested.

#### Endangered Species Act

Under section 7 of the ESA, the Corps completed consultation with NMFS on September 23, 2002, and with the USFWS on June 19, 2002, for this project. Both agencies found that activities associated with the Corps' dredging project in the Dodge-Lummus Island Turning Basin were not likely to adversely affect listed species.

#### National Environmental Policy Act

In accordance with section 6.01 of the National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has analyzed both the context and intensity of this action and determined, based on the Corps' 1989 Environmental Impact Statement and Feasibility Report for the Navigation Study for the Miami Harbor Channel and the contents, results, and analyses of the Corps' blasting project, that this IHA will not individually or cumulatively result in a significant impact on the quality of the human environment as defined in 40 CFR 1508.27. Accordingly, this action qualifies for a categorical exemption and is exempted from further environmental review under NOAA Administrative Order 216-6.

#### Conclusions

NMFS determined that the short-term impact as described in the proposed authorization (68 FR 6116, February 6, 2003), should result, at worst, in the temporary modification in behavior by bottlenose dolphins. Although behavioral modifications, including temporarily vacating the area, may be made by this species to avoid the resultant visual and acoustic disturbance from dredging and detonations, this action is expected to have a negligible impact on the affected species or stocks. In addition, no take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of

the mitigation measures mentioned previously in this document.

#### Authorization

NMFS has issued an IHA to the Corps for the potential harassment of small numbers of bottlenose dolphins incidental to deepening the Turning Basin in Miami, FL, provided the previously described mitigation, monitoring, and reporting requirements are met. NMFS has determined that the activity would result in the Level B harassment of only small numbers of bottlenose dolphins and will have no more than a negligible impact on this marine mammal stock.

Dated: May 22, 2003.

#### Donna Wieting,

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

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## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Practitioner Records Maintenance, Disclosure, and Discipline Before the Patent and Trademark Office (Formerly Practitioner Records Maintenance and Disclosure Before the Patent and Trademark Office)

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the revision of a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before July 28, 2003.

**ADDRESSES:** Direct all written comments to Susan K. Brown, Records Officer, Office of Data Architecture and Services, Data Administration Division, U.S. Patent and Trademark Office, Suite 310, 2231 Crystal Drive, Arlington, VA 22202, by telephone at (703) 308-7400; by e-mail at [susan.brown@uspto.gov](mailto:susan.brown@uspto.gov); or by facsimile at (703) 308-7407.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to the attention of Nora Cordova, Mail Stop OED, Director of the United States Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450; by