

results of the sunset review no later than December 19, 2005.

**FOR FURTHER INFORMATION CONTACT:** Jun Jack Zhao or Sean Carey, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1396 or (202) 482-3964, respectively.

**SUPPLEMENTARY INFORMATION:**

**Extension of Final Results:**

On June 1, 2006, the Department of Commerce (the Department) published, in the **Federal Register**, the notice of initiation of the second five-year sunset review of the countervailing duty order on OCTG from Italy, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See *Initiation of Five-year ("Sunset") Reviews*, 71 FR 31153 (June 1, 2006). On July 21, 2006, the Department determined that the substantive responses filed by the Government of Italy (GOI), the European Union/Delegation of the European Commission (EU) and Dalmine S.p.A. (Dalmine) were inadequate and that this sunset review would be conducted on an expedited basis. See July 21, 2006 memo from the sunset team to Stephen J. Claeys, through Barbara E. Tillman, *Adequacy Determination: Sunset Review of the Countervailing Duty Order on Oil Country Tubular Goods from Italy (Second Review)*. This memorandum is on file in the Central Records Unit, room B-099 of the main Commerce building. The Department's final results of this review were scheduled for September 29, 2006; however, the Department needs additional time to make its final determination.

In accordance with section 751(c)(5)(B) of the Act, the Department may extend the period of time for making its final determination in a sunset review by not more than 90 days, if it determines that the review is extraordinarily complicated. The Department needs additional time to consider issues related to whether a countervailable subsidy is likely to continue or recur if the order is revoked. Specifically, the Department has determined that it is necessary to verify certain of the information provided by respondents in this review. Therefore, the Department will extend the deadline in this proceeding, and, as a result, intends to issue the final results of the sunset review of the countervailing duty order on OCTG from Italy, no later than December 19, 2006, an additional 81

days from the date of initiation of this review.

This notice is issued and published in accordance with sections 751(c)(5)(B) and (C) of the Act.

Dated: September 26, 2006.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Amendment to Notice**

**AGENCY:** International Trade Administration, Department of Commerce.

**SUMMARY:** This notice amends the June 30th notice (71 FR 37543) to extend the deadline to October 27, 2006, for submission of applications for the Summit only portion of the Department of Commerce Under Secretarial Business Development Mission to India and to raise the ceiling on the number of participants for the Summit portion of the Mission to 230. These changes are implemented in response to overwhelming interest on the part of the U.S. business community and an agreement on the part of the Summit sponsors in India to accommodate an increased participant base. The application for the Summit portion of the India Business Development Mission is available in a downloadable fax-back version on the event Web site: <http://export.gov/indiamission>. The application may also be completed and submitted online. Leaders of U.S. business, industry, education, and state and local government are among those encouraged to take part in the Summit, where strategic breakout sessions will provide access to India's high-level business, industry, and government representatives and insights into the country's trade and investment climate. The deadline to apply for the post-Summit spin-off missions to be held in Bangalore, Kolkata, Chennai, Hyderabad, Mumbai, and New Delhi remains October 2, 2006. The spin-off missions are open to qualified U.S. business representatives seeking one-on-one business appointments with prospective agents, distributors, partners, and end-users. Applications for the spin-off missions are available on the above-cited event Web site. Selection criteria and procedures for the Summit and spin-off missions are included in the Trade Mission Statement on the Web site.

**FOR FURTHER INFORMATION CONTACT:**

Nancy Hesser at the Department of Commerce in Washington, DC. Telephone: (202) 482-4663. Fax: (202) 482-2718. Both downloadable and online versions of the application for the Summit and the spin-off missions are available on the event Web site: <http://export.gov/indiamission>.

**Nancy Hesser,**

*Manager, Commercial Service Trade Missions Program.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 090706D]

**Protection of Marine Mammals; Notice of Intent to Prepare an Environmental Impact Statement**

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

**ACTION:** Notice of intent to prepare and environmental impact statement (EIS); notice of public scoping meetings.

**SUMMARY:** The National Marine Fisheries Service (NMFS) announces its intent to prepare an EIS to assess the potential impacts on the human environment resulting from proposed regulations to protect wild spinner dolphins (*Stenella longirostris*) in the main Hawaiian Islands from "take," as defined in the Marine Mammal Protection Act (MMPA) and its implementing regulations; and announces public scoping meetings.

**DATES:** Four public scoping meetings are scheduled to obtain comments on the scope of issues to be addressed in the EIS. See **SUPPLEMENTARY INFORMATION** for specific times and locations. In addition to obtaining comments in the public scoping meetings, NMFS will also accept written and electronic comments. Comments must be received no later than 5 p.m. h.s.t. on November 24, 2006.

**ADDRESSES:** Written comments on the scope of the EIS should be submitted to Chris E. Yates, Assistant Regional Administrator for Protected Resources, Pacific Islands Regional Office, NMFS, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814. Written comments may also be submitted by e-mail to [Spinner.Scoping@noaa.gov](mailto:Spinner.Scoping@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Lisa Van Atta, NMFS, Pacific Islands Region; telephone: (808) 944-2257; fax: (808)

944-2142; e-mail: [alecia.vanatta@noaa.gov](mailto:alecia.vanatta@noaa.gov). For information regarding the EIS process, contact Jayne LeFors, NMFS, Pacific Islands Region; telephone: (808) 944-2277; fax: (808) 944-2142; e-mail: [jayne.lefors@noaa.gov](mailto:jayne.lefors@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Public Scoping Meetings – Specific Times and Locations

The Honolulu, Oahu, HI scoping meeting: October 17, 2006, 6 p.m. - 9 p.m. The meeting location is the McCoy Pavilion, Ala Moana Regional Park, 1201 Ala Moana Boulevard, Honolulu, HI, 96814, telephone: (808) 823-1636.

The Kapa'a, Kauai, HI scoping meeting: October 19, 2006, 6 p.m. - 9 p.m. The meeting location is the Aloha Beach Resort Kauai, Pi'ikoi Room, 3-5920 Kuhio Highway, Kapa'a, HI, 96746, telephone: (808) 823-1636.

The Kihei, Maui, HI scoping meeting: October 25, 2006, 6 p.m. - 9 p.m. The meeting location is the Hawaiian Islands Humpback Whale National Marine Sanctuary, Headquarters office, 726 S. Kihei Road, Kihei, HI, 96753, telephone: (808) 879-2818 or (800) 831-4888.

The Kailua-Kona, HI scoping meeting: October 26, 2006, 6 p.m. - 9 p.m. The meeting location is King Kamehameha's Kona Beach Hotel, 75-5660 Palani Road, Kailua-Kona, HI, 96740, telephone: (808) 329-2911.

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jayne LeFors, (808) 944-2277 or fax (808) 944-2142 at least 5 days before the scheduled meeting date.

##### Background

Viewing wild marine mammals in Hawaii is a popular recreational activity for both tourists and residents alike. In the past, most efforts focused on viewing humpback whales (*Megaptera novaeangliae*) during the winter months when the whales migrate from their feeding grounds off the coast of Alaska to Hawaii's warm and protected waters to breed and calve. However, in recent years, increasing efforts have focused on viewing small cetaceans, with a particular emphasis on Hawaiian spinner dolphins (*Stenella longirostris*), which can be routinely found close to shore in shallow coves and bays throughout the main Hawaiian Islands. NMFS has received an increasing number of complaints from constituents charging that spinner dolphins are being routinely disturbed by people attempting to closely approach and interact with the dolphins by vessel

(motor powered or kayak) or in the water ("swim-with-wild-dolphin" activities). Concerns have been expressed by officials from the Hawaii Department of Land and Natural Resources and the U.S. Marine Mammal Commission (MMC), as well as various members of the public, including representatives of the Native Hawaiian community, scientific researchers, wildlife conservation organizations, public display organizations, and some commercial tour operators.

NMFS encourages members of the public to view and enjoy Hawaiian spinner dolphins, and supports responsible wildlife viewing as articulated in agency guidelines (see web citation below). However, activities currently conducted by individuals and by commercial "swim-with" programs frequently do not operate in accordance with these guidelines. NMFS is concerned that activities occurring in Hawaii have the potential to cause detrimental individual and population-level impacts to these dolphins.

Hawaiian spinner dolphins routinely utilize shallow coves and bays close to shore during the day to rest, care for their young, and avoid predators, before traveling to deeper water at night to hunt for food. As the dolphins begin or end their resting period in a bay, they engage in aerial spinning and leaping behaviors that are noticeable from shore. However, when they are in a period of deep rest, their behavior consists of synchronous dives and extended periods swimming in quiet formation along the shallow bottom (Norris and Dohl 1980; Norris *et al.*, 1985; Wells and Norris 1994; Wursig *et al.* 1994).

Scientific research studies have documented the effects of human disturbance on dolphins. In a recently published study conducted at Oahu's Makua Beach, Danil *et al.* (2005) found that Hawaiian spinner dolphins departed the resting bay earlier and spent shorter diving periods, which was indicative of delayed or compressed resting behavior, while swimmers were present in the bay.

Additionally, a study in western Australia documented a significant decline in wild bottlenose dolphin (*Tursiops* sp.) abundance resulting from long-term exposure to dolphin tour operations (Bejder *et al.*, 2006; Bejder *et al.*, In press). While there are some major differences between bottlenose dolphins and spinner dolphins, their responses to exposure to tour operations would likely be similar. The authors suggest that similar declines would be devastating for small, closed, resident, or endangered cetacean populations like spinner dolphins.

##### Current MMPA Prohibitions and NMFS Guidelines and Regulations

The Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.* (MMPA) prohibits the "take" of marine mammals. Section 3(13) of the MMPA defines the term "take" as "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal." Section 3(18)(A) of the MMPA defines the term "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; 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."

In addition, NMFS regulations implementing the MMPA have amended the term "take" to include "the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild" (50 CFR 216.3).

Although Hawaiian spinner dolphins are not a listed species under the Endangered Species Act (ESA), NMFS has implemented specific regulations for some ESA-listed marine mammals which address interactions with humans in the wild. These regulations prohibit approaches closer than 100 yards (91.4 m) to humpback whales in Hawaii and Alaska, and approaches closer than 500 yards (460 m) to right whales in the North Atlantic (50 CFR 224.103), as well as approaches within 3 nautical miles (5.5 km) of particular Steller sea lion (*Eumetopias jubatus*) rookeries in the Aleutian Islands and Gulf of Alaska (50 CFR 223.202). However, specific approach distance regulations have not yet been implemented under the MMPA for other species of marine mammals.

The MMPA provides limited exceptions to the prohibition on "take" for activities such as scientific research, public display, and incidental take in commercial fisheries. Such activities require a permit or authorization, which may be issued after a thorough agency review. In some cases, the activities requiring a permit and receiving agency review (e.g., photo identification research) are significantly less intrusive than certain known tourist activities (e.g., swimming with wild dolphins). However, the MMPA does not provide an exception to the "take" prohibition for commercial or recreational wildlife

viewing activities, so they are not eligible for permits or authorizations. Instead, wildlife viewing should be conducted in a manner that does not cause "take," which is consistent with the general philosophy of responsible wildlife viewing to unobtrusively observe the natural behavior of wild animals in their habitats without causing disturbance.

Each of the five NMFS Regions has developed recommended viewing guidelines to educate the general public on how to responsibly view marine mammals in the wild and avoid causing a "take" by "harassment." The guidelines developed by the NMFS Pacific Islands Regional Office for marine wildlife in Hawaii are available at: <http://www.nmfs.noaa.gov/pr/education/hawaii/>.

The guidelines for Hawaii recommend that people view wild dolphins from a safe distance of at least 50 yards (45 m) and to refrain from trying to chase, closely approach, surround, swim with, or touch the animals. To support the guidelines in Hawaii, NMFS has partnered with the State of Hawaii and the Hawaiian Islands Humpback Whale National Marine Sanctuary over the past several years to promote safe and responsible wildlife viewing practices through the development of outreach materials, training workshops, and public service announcements. NMFS' education and outreach efforts have also been supported by a partnership with the Watchable Wildlife program, a consortium of Federal and state wildlife agencies and wildlife interest groups that encourages passive viewing of wildlife from a distance for the safety and well-being of both animals and people (Duda 1995, Oberbillig 2000, Clark 2006).

However, despite the regulations, guidelines, and outreach efforts, extensive interactions with wild spinner dolphins continue to occur in Hawaii. Advertisements on the internet and in local media in Hawaii promote activities that clearly contradict the NMFS guidelines and appear to depict harassment of the animals. NMFS has also received inquiries from members of the public and commercial tour operators requesting clarification on NMFS' policy and the MMPA restrictions on closely approaching, swimming with, or interacting with wild cetaceans.

In response to the concerns expressed about spinner dolphin disturbance, NMFS published an Advance Notice of Proposed Rulemaking (ANPR) on December 12, 2005 (70 FR 73426) to alert the public that it would be considering whether to implement

additional regulations or other conservation measures as appropriate to protect wild spinner dolphins in the main Hawaiian Islands from people attempting to closely approach and interact with the dolphins by vessel (motor powered or kayak) or in the water ("swim-with-wild-dolphin" activities). The ANPR with the complete background information can be found at <http://swr.nmfs.noaa.gov/pir/index.htm> along with the scientific literature cited.

Public comment was solicited on a range of alternatives being considered to address the issue. A total of 191 comments were received from a wide range of stakeholders and recommended a variety of actions for NMFS to consider, ranging from no regulations to permanent closure of areas the dolphins use for resting and shelter. Based upon the comments received during this process, the original alternatives were further refined to provide a basis for the alternatives to be analyzed in the EIS.

The EIS will consider the proposed action and several alternatives to protect wild spinner dolphins in the main Hawaiian Islands from human activities that may result in their unauthorized taking, or that may cause detrimental individual or population-level impacts by diminishing the value of habitat they routinely use for resting. NMFS is seeking public comment on both the proposed action and the preliminary alternatives during the public scoping period, and encourages the public to submit information on these and other potential alternatives for consideration.

#### **Proposed Action**

NMFS has identified the proposed action as instituting partial (time-area based) closures for certain specified spinner dolphin resting habitat (or a subset thereof) in the main Hawaiian Islands. Under the proposed action, NMFS would identify the primary areas utilized by spinner dolphins for resting habitat on each of the main Hawaiian Islands, and would institute closures of these areas during certain time periods. Closure types to be considered could include entire bays, but only during peak spinner dolphin resting hours (e.g., between 9 a.m. and 2 p.m.), or closures only within specified zones within spinner dolphin resting habitat (e.g., as demarcated by buoys). Such closures would attempt to provide optimal protection for spinner dolphins and their resting habitat, while minimizing the impact on ocean users. Exemptions within certain bays for harbors transit (ingress and egress of vessels), traditional cultural practices, fishing activities, emergency situations, and other activities would be considered.

#### **Alternatives**

NMFS has also identified four additional alternatives to the proposed action: (1) maintaining the status quo (the No Action alternative); (2) establishing a minimum distance limit inside which approach of spinner dolphins would be unlawful; (3) regulating certain specified human behavior within NMFS-identified spinner dolphin resting habitat; and (4) instituting a complete closure of NMFS-identified spinner dolphin resting habitat (or a subset thereof).

##### *Alternative 1*

Under the No Action alternative, which is required by CEQ regulations (40 CFR 1502.14), NMFS would take no additional regulatory action to protect spinner dolphins from human activities in the main Hawaiian Islands, thereby perpetuating the status quo. The current "take" provisions of the MMPA and its implementing regulations would be the mechanisms through which unlawful interactions with spinner dolphins would be addressed. Under the No Action alternative, the current (and increasing) frequency and intensity of human interactions with spinner dolphins would likely continue.

##### *Alternative 2*

Alternative 2 would establish a minimum distance limit, similar to minimum approach rules for humpback whales in Hawaii (50 CFR 224.103(a)) and Alaska (50 CFR 224.103(b)), and for right whales in the North Atlantic (50 CFR 224.103(c)), within which approaching spinner dolphins in the main Hawaiian Islands, by any means, would be unlawful. Such a limit would attempt to accommodate a reasonable level of dolphin viewing opportunities while minimizing potential detrimental impacts from human interactions. NMFS may consider the current Pacific Islands Regional Responsible Marine Wildlife Viewing guideline of 50 yards (45 m). NMFS may also consider exemptions for situations in which approach within the established limit is not reasonably avoidable (e.g., when human safety is at risk).

##### *Alternative 3*

Alternative 3 would regulate human behavior while in NMFS-identified spinner dolphin resting areas in the main Hawaiian Islands. This alternative would reiterate all activities currently prohibited by the MMPA and its implementing regulations, but would also prohibit other specified human activities, such as swimming with spinner dolphins. This alternative would also prohibit specified watercraft

(motor vessels, personal thrillcraft, kayaks, etc.) activities, such as placing a vessel in the predictable path of spinner dolphins in order to facilitate an encounter; as well as regulate watercraft travel (e.g., speed restrictions) within spinner dolphin resting areas.

#### Alternative 4

Alternative 4 would adopt a very restrictive approach by identifying all known spinner dolphin resting areas in the main Hawaiian Islands and institute a complete closure in these areas to all commercial and non-commercial activities. Exemptions within certain bays for harbors transit (ingress and egress of vessels) and emergency situations would be considered.

#### Public Involvement and the Scoping Process

NMFS' intent is to afford an opportunity for the public to participate in this process, including interested citizens, commercial operators, and environmental organizations; any affected low-income or minority populations; affected local state, and Federal agencies; and any other agencies with jurisdiction or special expertise concerning environmental impacts to be addressed in the EIS.

NMFS will hold public scoping meetings and accept oral and written comments on the scope of issues that should be addressed in the EIS; to determine the issues of concern with respect to practical considerations involved in applying the proposed regulations; to identify relevant environmental and socioeconomic issues to be addressed in the analysis; and to determine whether NMFS is addressing the appropriate range of alternatives. The public, as well as Federal, state, and local agencies, are encouraged to participate in this scoping process. The dates and locations of these meetings appear in this **Federal Register** notice (See **SUPPLEMENTARY INFORMATION**). The agency also invites the public to submit comments by e-mail or regular mail (See **ADDRESSES**).

**Authority:** Authority: 16 U.S.C. 1361 *et seq.*

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Oberbillig, D.E. 2000. *Providing positive Wildlife Viewing Experiences: A Practical Handbook*. Watchable Wildlife, Inc., Colorado Division of Wildlife Publication. 68 pp.

Wells, R.S. and K.S. Norris. 1994. The island habitat. In: K.S. Norris, B. Wursig, R.S. Wells, and M. Wursig (Eds.), *The Hawaiian Spinner Dolphin*. University of California Press, Berkeley. Pp.31-53.

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Dated: September 26, 2006.

#### Samuel D. Rauch III,

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 092506C]

#### Marine Mammals; File No. 978-1857

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Paul Nachtigall, Ph.D., Hawaii Institute of Marine Biology, University of Hawaii, P.O. Box 1106, Kailua, HI 96734, has applied in due form for a permit to conduct research on captive cetaceans.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before November 1, 2006.

**ADDRESSES:** The application and related documents are available for review upon written request or by appointment in the following office(s):

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)427-2521; and Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814-4700; phone (808)973-2935; fax (808)973-2941.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: File No. 978-1857.

#### FOR FURTHER INFORMATION CONTACT:

Amy Sloan or Dr. Tammy Adams, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations