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## United States Senate

December 17, 2021

The Honorable Rick Spinrad, Ph.D.  
Under Secretary of Commerce for Oceans and Atmosphere  
Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Dear Under Secretary Spinrad:

I am concerned that the National Oceanic and Atmospheric Administration (NOAA) has proposed a new rule to impose time-area closures for five well-used bays on the islands of Hawai‘i and Maui (Kealahou Bay, Hōnaunau Bay, Kauhakō Bay, and Makako Bay) to everyone between 6am and 3pm every day. This heavy-handed proposal will limit local access to the ocean, and I question whether it is necessary.

The time-area closures have been justified as protection for spinner dolphins, but the dolphins that use these bays are already protected by a recent NOAA rule that clearly and unambiguously prohibits swimming with, approaching, or remaining within 50 yards of a spinner dolphin within 2 nautical miles of the Hawaiian Islands. With this strong protection for the dolphins already in place, it is easy to understand criticism that the time-area closures needlessly duplicate existing rules.

Worse, the indiscriminate scope of the closures apply to residents and visitors alike, regardless of whether their actions will impact the dolphins or not. This means that a range of activities that do not harm spinner dolphins will effectively be forbidden during the hours of the closure, including: shore casting, spear fishing, free diving, exercise swimming, and surfing. In addition, I note that these restrictions will apply regardless of whether dolphins are present or not, which only substantiates concerns that the proposed rule is not necessary.

In conclusion, the proposed rule will foreseeably deny Hawai‘i residents and visitors access to the ocean to protect dolphins that are already strongly protected under another, separate rule that went into effect on October 28, 2021. I believe NOAA owes it to the people of Hawai‘i to halt further action on time-area closures, and focus instead on how to implement its October 28<sup>th</sup> rule. In addition to requesting your personal attention to this matter, I ask that my letter be included with the public comments on the proposed rule. If you have any questions, please feel free to contact either me or my lead oceans staff, James Chang ([james\\_chang@schatz.senate.gov](mailto:james_chang@schatz.senate.gov)).

Sincerely,



BRIAN SCHATZ  
United States Senator