

- Sec.
 1421d. Unusual mortality event activity funding.
 1421e. Liability.
 1421f. National Marine Mammal Tissue Bank and tissue analysis.
 1421f-1. John H. Prescott Marine Mammal Rescue Assistance Grant Program.
 1421g. Authorization of appropriations.
 1421h. Definitions.
 SUBCHAPTER VI—POLAR BEARS
 1423. Definitions.
 1423a. Prohibitions.
 1423b. Administration.
 1423c. Cooperative management agreement; authority to delegate enforcement authority.
 1423d. Commission appointments; compensation, travel expenses, and claims.
 1423e. Votes taken by the United States section on matters before the Commission.
 1423f. Implementation of actions taken by the Commission.
 1423g. Application with other subchapters of chapter.
 1423h. Authorization of appropriations.

SUBCHAPTER I—GENERALLY

§ 1361. Congressional findings and declaration of policy

The Congress finds that—

(1) certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities;

(2) such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population. Further measures should be immediately taken to replenish any species or population stock which has already diminished below that population. In particular, efforts should be made to protect essential habitats, including the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions;

(3) there is inadequate knowledge of the ecology and population dynamics of such marine mammals and of the factors which bear upon their ability to reproduce themselves successfully;

(4) negotiations should be undertaken immediately to encourage the development of international arrangements for research on, and conservation of, all marine mammals;

(5) marine mammals and marine mammal products either—

(A) move in interstate commerce, or

(B) affect the balance of marine ecosystems in a manner which is important to other animals and animal products which move in interstate commerce,

and that the protection and conservation of marine mammals and their habitats is therefore necessary to insure the continuing availability of those products which move in interstate commerce; and

(6) marine mammals have proven themselves to be resources of great international signifi-

cance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the carrying capacity of the habitat.

(Pub. L. 92-522, §2, Oct. 21, 1972, 86 Stat. 1027; Pub. L. 97-58, §1(b)(1), Oct. 9, 1981, 95 Stat. 979; Pub. L. 103-238, §3, Apr. 30, 1994, 108 Stat. 532.)

AMENDMENTS

1994—Par. (2). Pub. L. 103-238, §3(1), inserted "essential habitats, including" after "made to protect".

Par. (5). Pub. L. 103-238, §3(2), inserted "and their habitats" before "is therefore necessary" in concluding provisions.

1981—Par. (6). Pub. L. 97-58 substituted "carrying capacity" for "optimum carrying capacity".

EFFECTIVE DATE

Pub. L. 92-522, §4, Oct. 21, 1972, 86 Stat. 1029, provided that: "The provisions of this Act [enacting this chapter] shall take effect upon the expiration of the sixty-day period following the date of its enactment [Oct. 21, 1972]."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115-329, §1, Dec. 18, 2018, 132 Stat. 4475, provided that: "This Act [amending section 1389 of this title and enacting provisions set out as a note under section 1389 of this title] may be cited as the 'Endangered Salmon Predation Prevention Act'."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 109-479, title IX, §901, Jan. 12, 2007, 120 Stat. 3660, provided that: "This title [enacting subchapter VI of this chapter and amending section 1377 of this title] may be cited as the 'United States-Russia Polar Bear Conservation and Management Act of 2006'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-555, §1, Dec. 21, 2000, 114 Stat. 2765, provided that: "This Act [enacting section 1421f-1 of this title, amending sections 1362, 1421g, 1421h, 1433, 1434, 5101 to 5103, 5106, 5107a to 5108, and 5156 of this title, enacting provisions set out as notes under this section and sections 917a, 1433, 5101, and 5107 of this title, and amending provisions set out as a note under section 1855 of this title] may be cited as the 'Striped Bass Conservation, Atlantic Coastal Fisheries Management, and Marine Mammal Rescue Assistance Act of 2000'."

Pub. L. 106-555, title II, §201, Dec. 21, 2000, 114 Stat. 2767, provided that: "This title [enacting section 1421f-1 of this title, amending sections 1362, 1421g, 1421h, 1433, and 1434 of this title, enacting provisions set out as notes under sections 917a and 1433 of this title, and amending provisions set out as a note under section 1855 of this title] may be cited as the 'Marine Mammal Rescue Assistance Act of 2000'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-42, §1(a), Aug. 15, 1997, 111 Stat. 1122, provided that: "This Act [enacting sections 962, 1412, 1413, 1414a to 1416 of this title, amending sections 952, 953, 1362, 1371, 1374, 1378, 1380, 1385, 1411, and 1417 of this title, repealing sections 1412 to 1416 and 1418 of this title, and enacting provisions set out as notes under this section and section 1362 of this title] may be cited as the 'International Dolphin Conservation Program Act'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-238, §1, Apr. 30, 1994, 108 Stat. 532, provided that: "This Act [enacting sections 1386 to 1389 of this title, amending this section and sections 1362, 1371, 1372, 1374, 1375, 1379, 1380, 1382 to 1384, 1407, 1421 to 1421h, and 4107 of this title, repealing sections 1384 and 1407 of this title, and enacting provisions set out as notes under this section and sections 1362, 1374, 1538, and 1539 of this title] may be cited as the 'Marine Mammal Protection Act Amendments of 1994'."

SHORT TITLE OF 1992 AMENDMENTS

Pub. L. 102-587, title III, §3001, Nov. 4, 1992, 106 Stat. 5059, provided that: "This title [enacting subchapter V of this chapter, amending sections 1362, 1372, 1379, and 1382 of this title and section 183c of Title 46, Appendix, Shipping, and enacting provisions set out as notes under sections 1421 and 1421a of this title] may be cited as the 'Marine Mammal Health and Stranding Response Act'."

Pub. L. 102-523, §1, Oct. 26, 1992, 106 Stat. 3425, provided that: "This Act [enacting subchapter IV of this chapter and amending sections 952, 953, 973r, and 1362 of this title] may be cited as the 'International Dolphin Conservation Act of 1992'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-711, §1, Nov. 23, 1988, 102 Stat. 4755, provided: "That this Act [enacting sections 1383a and 1383b of this title, amending sections 1166, 1371, 1372, 1374, 1378 to 1380, 1384, 1402, and 1407 of this title and section 1978 of Title 22, Foreign Relations and Intercourse, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 1384 of this title] may be cited as the 'Marine Mammal Protection Act Amendments of 1988'."

SHORT TITLE

Pub. L. 92-522, §1, Oct. 21, 1972, 86 Stat. 1027, provided in part that: "This Act [enacting this chapter] may be cited as the 'Marine Mammal Protection Act of 1972'."

REGULATIONS

Pub. L. 103-238, §15(b), Apr. 30, 1994, 108 Stat. 559, provided that: "Except as provided otherwise in this Act [see Short Title of 1994 Amendment note above], or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act by January 1, 1995."

PURPOSES AND FINDINGS

Pub. L. 105-42, §2, Aug. 15, 1997, 111 Stat. 1122, provided that:

"(a) PURPOSES.—The purposes of this Act [see Short Title of 1997 Amendment note above] are—

"(1) to give effect to the Declaration of Panama, signed October 4, 1995, by the Governments of Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, the United States of America, Vanuatu, and Venezuela, including the establishment of the International Dolphin Conservation Program, relating to the protection of dolphins and other species, and the conservation and management of tuna in the eastern tropical Pacific Ocean;

"(2) to recognize that nations fishing for tuna in the eastern tropical Pacific Ocean have achieved significant reductions in dolphin mortality associated with that fishery; and

"(3) to eliminate the ban on imports of tuna from those nations that are in compliance with the International Dolphin Conservation Program.

"(b) FINDINGS.—The Congress finds that—

"(1) the nations that fish for tuna in the eastern tropical Pacific Ocean have achieved significant re-

ductions in dolphin mortality associated with the purse seine fishery from hundreds of thousands annually to fewer than 5,000 annually;

"(2) the provisions of the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.] that impose a ban on imports from nations that fish for tuna in the eastern tropical Pacific Ocean have served as an incentive to reduce dolphin mortalities;

"(3) tuna canners and processors of the United States have led the canning and processing industry in promoting a dolphin-safe tuna market; and

"(4) 12 signatory nations to the Declaration of Panama, including the United States, agreed under that Declaration to require that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean not exceed 5,000 animals, with the objective of progressively reducing dolphin mortality to a level approaching zero through the setting of annual limits and with the goal of eliminating dolphin mortality."

RELATIONSHIP OF MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994 TO OTHER LAW

Pub. L. 103-238, §2(b), Apr. 30, 1994, 108 Stat. 532, provided that: "Except as otherwise expressly provided, nothing in this Act [see Short Title of 1994 Amendment note above] is intended to amend, repeal, or otherwise affect any other provision of law."

INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE

Pub. L. 103-238, §14, Apr. 30, 1994, 108 Stat. 558, provided that: "Nothing in this Act [see Short Title of 1994 Amendment note above], including any amendments to the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.] made by this Act—

"(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

"(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(b) of this Act [amending section 1371 of this title]."

STUDY ON EFFECTS OF DOLPHIN FEEDING

Pub. L. 102-567, title III, §306, Oct. 29, 1992, 106 Stat. 4284, directed Secretary of Commerce to conduct a study in the eastern Gulf of Mexico on the effects of feeding of noncaptive dolphins by human beings, such study to be designed to detect any behavior or diet modification resulting from this feeding and to identify the effects, if any, of these modifications on the health and well-being of the dolphins, directed Secretary to consult with National Academy of Sciences and Marine Mammal Commission in design and conduct of the study, and directed Secretary, within 18 months after Oct. 29, 1992, to submit to Congress a report on results of the study.

STUDY ON MORTALITY OF ATLANTIC DOLPHIN

Pub. L. 100-711, §7, Nov. 23, 1988, 102 Stat. 4771, directed Secretary of Commerce to conduct a study regarding east coast epidemic during 1987 and 1988 which caused substantial mortality within North Atlantic coastal population of Atlantic bottle-nosed dolphin, such study to examine (1) cause or causes of epidemic, (2) effect of epidemic on coastal and offshore populations of Atlantic bottle-nosed dolphin, (3) extent to which pollution may have contributed to epidemic, (4) whether other species and populations of marine mammals were affected by those factors which contributed to epidemic, and (5) any other matters pertaining to causes and effects of epidemic, with Secretary to submit on or before Jan. 1, 1989, to Committee on Commerce, Science, and Transportation of the Senate and Committee on Merchant Marine and Fisheries of the House of Representatives a plan for conducting the study.

INTERNATIONAL DISCUSSION TO ADVANCE
UNDERSTANDING OF CETACEAN LIFE

Pub. L. 95-426, title VI, §602, Oct. 7, 1978, 92 Stat. 985, provided that: "It is the sense of the Congress that the President should convey to all countries having an interest in cetacean sea life the serious concern of the Congress regarding the continuing destruction of these marine mammals (highlighted by the recent slaughter of dolphins in the Sea of Japan by Japanese fishermen) and should encourage such countries—

"(1) to join in international discussions with other such countries in order to advance general understanding of cetacean life and thereby facilitate an effective use of the living marine resources of the world which does not jeopardize the natural balance of the aquatic environment;

"(2) to participate in an exchange of information with the National Marine Fisheries Service of the United States Department of Commerce, including cooperation in studies of—

"(A) the impact of cetaceans on ecologically related human foodstuffs, and

"(B) alternative methods of dealing with cetacean problems as they occur;

"(3) to cooperate in establishing an international cetacean commission to advance understanding of cetacean life and to insure the effective conservation and protection of cetaceans on a global scale; and

"(4) to adopt comprehensive marine mammal protection legislation."

§ 1362. Definitions

For the purposes of this chapter—

(1) The term "depletion" or "depleted" means any case in which—

(A) the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under subchapter III of this chapter, determines that a species or population stock is below its optimum sustainable population;

(B) a State, to which authority for the conservation and management of a species or population stock is transferred under section 1379 of this title, determines that such species or stock is below its optimum sustainable population; or

(C) a species or population stock is listed as an endangered species or a threatened species under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.].

(2) The terms "conservation" and "management" mean the collection and application of biological information for the purposes of increasing and maintaining the number of animals within species and populations of marine mammals at their optimum sustainable population. Such terms include the entire scope of activities that constitute a modern scientific resource program, including, but not limited to, research, census, law enforcement, and habitat acquisition and improvement. Also included within these terms, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

(3) The term "district court of the United States" includes the District Court of Guam, District Court of the Virgin Islands, District Court of Puerto Rico, District Court of the Canal Zone, and, in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii.

(4) The term "humane" in the context of the taking of a marine mammal means that method of taking which involves the least possible degree of pain and suffering practicable to the mammal involved.

(5) The term "intermediary nation" means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 1371(a)(2)(B) of this title.

(6) The term "marine mammal" means any mammal which (A) is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia and Cetacea), or (B) primarily inhabits the marine environment (such as the polar bear); and, for the purposes of this chapter, includes any part of any such marine mammal, including its raw, dressed, or dyed fur or skin.

(7) The term "marine mammal product" means any item of merchandise which consists, or is composed in whole or in part, of any marine mammal.

(8) The term "moratorium" means a complete cessation of the taking of marine mammals and a complete ban on the importation into the United States of marine mammals and marine mammal products, except as provided in this chapter.

(9) The term "optimum sustainable population" means, with respect to any population stock, the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

(10) The term "person" includes (A) any private person or entity, and (B) any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(11) The term "population stock" or "stock" means a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature.

(12)(A) Except as provided in subparagraph (B), the term "Secretary" means—

(i) the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating, as to all responsibility, authority, funding, and duties under this chapter with respect to members of the order Cetacea and members, other than walruses, of the order Pinnipedia, and

(ii) the Secretary of the Interior as to all responsibility, authority, funding, and duties under this chapter with respect to all other marine mammals covered by this chapter.

(B) in¹ section 1387 of this title and subchapter V (other than section 1421f-1 of this title) the term "Secretary" means the Secretary of Commerce.

(13) The term "take" means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

¹ So in original. Probably should be capitalized.

(14) The term “United States” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and Northern Mariana Islands.

(15) The term “waters under the jurisdiction of the United States” means—

(A) the territorial sea of the United States;

(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the other boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

(16) The term “fishery” means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(17) The term “competent regional organization”—

(A) for the tuna fishery in the eastern tropical Pacific Ocean, means the Inter-American Tropical Tuna Commission; and

(B) in any other case, means an organization consisting of those nations participating in a tuna fishery, the purpose of which is the conservation and management of that fishery and the management of issues relating to that fishery.

(18)(A) The term “harassment” means 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.

(B) In the case of a military readiness activity (as defined in section 315(f) of Public Law 107-314; 16 U.S.C. 703 note) or a scientific research activity conducted by or on behalf of the

Federal Government consistent with section 1374(c)(3) of this title, the term “harassment” means—

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild; or

(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered.

(C) The term “Level A harassment” means harassment described in subparagraph (A)(i) or, in the case of a military readiness activity or scientific research activity described in subparagraph (B), harassment described in subparagraph (B)(i).

(D) The term “Level B harassment” means harassment described in subparagraph (A)(ii) or, in the case of a military readiness activity or scientific research activity described in subparagraph (B), harassment described in subparagraph (B)(ii).

(19) The term “strategic stock” means a marine mammal stock—

(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.] within the foreseeable future; or

(C) which is listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or is designated as depleted under this chapter.

(20) The term “potential biological removal level” means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

(A) The minimum population estimate of the stock.

(B) One-half the maximum theoretical or estimated net productivity rate of the stock at a small population size.

(C) A recovery factor of between 0.1 and 1.0.

(21) The term “Regional Fishery Management Council” means a Regional Fishery Management Council established under section 1852 of this title.

(22) The term “bona fide research” means scientific research on marine mammals, the results of which—

(A) likely would be accepted for publication in a referred scientific journal;

(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

(C) are likely to identify, evaluate, or resolve conservation problems.

(23) The term “Alaska Native organization” means a group designated by law or formally

chartered which represents or consists of Indians, Aleuts, or Eskimos residing in Alaska.

(24) The term “take reduction plan” means a plan developed under section 1387 of this title.

(25) The term “take reduction team” means a team established under section 1387 of this title.

(26) The term “net productivity rate” means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

(27) The term “minimum population estimate” means an estimate of the number of animals in a stock that—

(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.

(28) The term “International Dolphin Conservation Program” means the international program established by the agreement signed in LaJolla, California, in June, 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama.

(29) The term “Declaration of Panama” means the declaration signed in Panama City, Republic of Panama, on October 4, 1995.

(Pub. L. 92-522, §3, Oct. 21, 1972, 86 Stat. 1028; Pub. L. 93-205, §13(e)(1), Dec. 28, 1973, 87 Stat. 903; Pub. L. 94-265, title IV, §404(a), Apr. 13, 1976, 90 Stat. 360; Pub. L. 97-58, §1(a), (b)(2), Oct. 9, 1981, 95 Stat. 979; Pub. L. 102-251, title III, §304, Mar. 9, 1992, 106 Stat. 65; Pub. L. 102-523, §2(c), Oct. 26, 1992, 106 Stat. 3432; Pub. L. 102-582, title IV, §401(a), Nov. 2, 1992, 106 Stat. 4909; Pub. L. 102-587, title III, §3004(b), Nov. 4, 1992, 106 Stat. 5067; Pub. L. 103-238, §§12, 16(a), 24(a)(2), Apr. 30, 1994, 108 Stat. 557, 559, 565; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41; Pub. L. 104-297, title IV, §405(b)(2), (3), Oct. 11, 1996, 110 Stat. 3621; Pub. L. 105-42, §3, Aug. 15, 1997, 111 Stat. 1123; Pub. L. 106-555, title II, §202(b), Dec. 21, 2000, 114 Stat. 2768; Pub. L. 108-136, div. A, title III, §319(a), Nov. 24, 2003, 117 Stat. 1433.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in pars. (1)(C) and (19)(B), (C), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

AMENDMENTS

2003—Par. (18)(B) to (D). Pub. L. 108-136 added subpars. (B) to (D) and struck out former subpars. (B) and (C) which read as follows:

“(B) The term ‘Level A harassment’ means harassment described in subparagraph (A)(i).

“(C) The term ‘Level B harassment’ means harassment described in subparagraph (A)(ii).”

2000—Par. (12)(B). Pub. L. 106-555 inserted “(other than section 1421f-1 of this title)” after “subchapter V”.

1997—Pars. (28), (29). Pub. L. 105-42 added pars. (28) and (29).

1996—Par. (15). Pub. L. 104-297, §405(b)(2), repealed Pub. L. 102-251, §304. See 1992 Amendment note below.

Pub. L. 104-297, §404(b)(3), amended par. (15) generally. Prior to amendment, par. (15) read as follows:

“The term ‘waters under the jurisdiction of the United States’ means—

“(A) the territorial sea of the United States, and

“(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.”

Par. (21). Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.

1994—Par. (12)(B). Pub. L. 103-238, §24(a)(2), substituted “in section 1387 of this title and subchapter V” for “in subchapter V”.

Pars. (15) to (17). Pub. L. 103-238, §16(a), redesignated par. (15) defining “fishery”, and par. (16), as pars. (16) and (17), respectively, and struck out former par. (17) which defined “intermediary nation”.

Pars. (18) to (27). Pub. L. 103-238, §12, added pars. (18) to (27).

1992—Pars. (5) to (11). Pub. L. 102-582 added par. (5) and redesignated former pars. (5) to (10) as (6) to (11), respectively.

Par. (12). Pub. L. 102-587 substituted “(A) Except as provided in subparagraph (B), the term” for “The term”, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B). See Construction of Amendment by Pub. L. 102-587 note below.

Pub. L. 102-582 redesignated par. (11) as (12). Former par. (12) redesignated (13).

Pars. (13), (14). Pub. L. 102-582 redesignated pars. (12) and (13) as (13) and (14), respectively. Former par. (14) redesignated (15).

Par. (15). Pub. L. 102-582 redesignated par. (14), defining waters under the jurisdiction of the United States, as (15).

Pub. L. 102-523 added par. (15) defining fishery.

Pub. L. 102-251, §304, which directed the general amendment of par. (15) by reenacting the introductory provisions and subpars. (A) and (B) without substantial change and adding subpar. (C) which read “the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.”, was repealed by Pub. L. 104-297, §405(b)(2).

Pars. (16), (17). Pub. L. 102-523 added pars. (16) and (17).

1981—Par. (1). Pub. L. 97-58, §1(b)(2)(A), substituted a single management standard, that is, the maintenance of species at their optimum sustainable population, for the former management standard which had included the decline of a species or population stock that had declined to a significant degree over a period of years, the decline of a species or population stock which, if continued or resumed, would place the species or stock within the provisions of the Endangered Species Act of 1973, and a species or population stock that was below the optimum carrying capacity for the species or stock within its environment.

Par. (2). Pub. L. 97-58, §1(b)(2)(B), substituted “their optimum sustainable population” for “the optimum carrying capacity of their habitat”.

Par. (8). Pub. L. 97-58, §1(a), (b)(2)(C), (D), redesignated par. (9) as (8) and substituted “carrying capacity” for “optimum carrying capacity”. Former par. (8), which defined “optimum carrying capacity” was struck out.

Pars. (9) to (12). Pub. L. 97-58, §1(b)(2)(C), redesignated pars. (9) to (13) as (8) to (12), respectively.

Par. (13). Pub. L. 97-58, §1(b)(2)(C), (E), redesignated par. (14) as (13) and substituted “the Virgin Islands of

the United States, American Samoa, Guam, and Northern Mariana Islands” for “the Canal Zone, the possessions of the United States, and the Trust Territory of the Pacific Islands”. Former par. (13) redesignated (12).

Pars. (14), (15). Pub. L. 97-58, §1(b)(2)(C), redesignated pars. (14) and (15) as (13) and (14), respectively.

1976—Par. (15)(B). Pub. L. 94-265 substituted “the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured” for “the fisheries zone established pursuant to the Act of October 14, 1966”.

1973—Par. (1)(B). Pub. L. 93-205 substituted “Endangered Species Act of 1973” for “Endangered Species Conservation Act of 1969”.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-42, §8, Aug. 15, 1997, 111 Stat. 1139, provided that:

“(a) AMENDMENTS TO TAKE EFFECT WHEN IDCP IN FORCE.—Sections 3 through 7 of this Act [enacting sections 962, 1412, 1413, 1414a to 1416 of this title, amending sections 952, 953, 1362, 1371, 1374, 1378, 1380, 1385, 1411, and 1417 of this title, and repealing sections 1412 to 1416 and 1418 of this title] (except for section 304 of the Marine Mammal Protection Act of 1972 as added by section 6 of this Act [section 1414a of this title]) shall become effective upon—

“(1) certification by the Secretary of Commerce that—

“(A) sufficient funding is available to complete the first year of the study required under section 304(a) of the Marine Mammal Protection Act of 1972, as so added; and

“(B) the study has commenced; and

“(2) certification by the Secretary of State to Congress that a binding resolution of the Inter-American Tropical Tuna Commission or other legally binding instrument establishing the International Dolphin Conservation Program has been adopted and is in force.

“(b) SPECIAL EFFECTIVE DATE.—Notwithstanding subsection (a), the Secretary of Commerce may issue regulations under—

“(1) subsection (f)(2) of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385(f)(2)), as added by section 5(b) of this Act;

“(2) section 303(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1413(a)), as added by section 6(c) of this Act,

at any time after the date of enactment of this Act [Aug. 15, 1997].”

[The Secretary of Commerce made the certification referred to in section 8(a)(1) of Pub. L. 105-42, set out above, on July 27, 1998, and the Secretary of State made the certification referred to in section 8(a)(2) of Pub. L. 105-42 on Mar. 3, 1999.]

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-238, §24(e), Apr. 30, 1994, 108 Stat. 566, provided that: “The amendments made by subsection (a) [amending this section] shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067) [Pub. L. 102-587].”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary,

signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-265, title IV, §404(b), Apr. 13, 1976, 90 Stat. 361, provided that the amendment made by section 404(a) of Pub. L. 94-265 to this section was to take effect Mar. 1, 1977, prior to the general amendment of title IV of Pub. L. 94-265 by Pub. L. 104-297.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-205 effective Dec. 28, 1973, see section 16 of Pub. L. 93-205, set out as an Effective Date note under section 1531 of this title.

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92-522, set out as a note under section 1361 of this title.

CONSTRUCTION OF AMENDMENT BY PUB. L. 102-587

Pub. L. 103-238, §24(a)(1), Apr. 30, 1994, 108 Stat. 565, provided that: “The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067) [Pub. L. 102-587, amending this section]—

“(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

“(B) shall not be considered to have been made by that section to section 3(11) of that Act (16 U.S.C. 1362(11)).”

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the “transition period”, being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96-70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

SUBCHAPTER II—CONSERVATION AND
PROTECTION OF MARINE MAMMALS

§ 1371. Moratorium on taking and importing marine mammals and marine mammal products

(a) Imposition; exceptions

There shall be a moratorium on the taking and importation of marine mammals and marine mammal products, commencing on the effective date of this chapter, during which time no permit may be issued for the taking of any marine mammal and no marine mammal or marine mammal product may be imported into the United States except in the following cases:

(1) Consistent with the provisions of section 1374 of this title, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 1374(c)(5) of this title, may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under subchapter III. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 1374(c)(5) of this title, which is consistent with the purposes and policies of section 1361 of this title. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.

(2) Marine mammals may be taken incidentally in the course of commercial fishing operations and permits may be issued therefor under section 1374 of this title subject to regulations prescribed by the Secretary in accordance with section 1373 of this title, or in lieu of such permits, authorizations may be granted therefor under section 1387 of this title, subject to regulations prescribed under that section by the Secretary without regard to section 1373 of this title. Such authorizations may be granted under subchapter IV with respect to purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, subject to regulations prescribed under that subchapter by the Secretary without regard to section 1373 of this title. In any event it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate. The Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. For purposes of applying the preceding sentence, the Secretary—

(A) shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States;

(B) in the case of yellowfin tuna harvested with purse seine nets in the eastern tropical Pacific Ocean, and products therefrom, to be exported to the United States, shall require that the government of the exporting nation provide documentary evidence that—

(i)(I) the tuna or products therefrom were not banned from importation under this paragraph before the effective date of section 4 of the International Dolphin Conservation Program Act; or

(II) the tuna or products therefrom were harvested after the effective date of section 4 of the International Dolphin Conservation Program Act by vessels of a nation which participates in the International Dolphin Conservation Program, and such harvesting nation is either a member of the Inter-American Tropical Tuna Commission or has initiated (and within 6 months thereafter completed) all steps required of applicant nations, in accordance with article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission, to become a member of that organization;

(ii) such nation is meeting the obligations of the International Dolphin Conservation Program and the obligations of membership in the Inter-American Tropical Tuna Commission, including all financial obligations; and

(iii) the total dolphin mortality limits, and per-stock per-year dolphin mortality limits permitted for that nation's vessels under the International Dolphin Conservation Program do not exceed the limits determined for 1997, or for any year thereafter, consistent with the objective of progressively reducing dolphin mortality to a level approaching zero through the setting of annual limits and the goal of eliminating dolphin mortality, and requirements of the International Dolphin Conservation Program;

(C) shall not accept such documentary evidence if—

(i) the government of the harvesting nation does not provide directly or authorize the Inter-American Tropical Tuna Commission to release complete and accurate information to the Secretary in a timely manner—

(I) to allow determination of compliance with the International Dolphin Conservation Program; and

(II) for the purposes of tracking and verifying compliance with the minimum requirements established by the Secretary in regulations promulgated under section 1385(f) of this title; or

(ii) after taking into consideration such information, findings of the Inter-Amer-