

16 USC CHAPTER 31, SUBCHAPTER IV: INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

From Title 16—CONSERVATION

CHAPTER 31—MARINE MAMMAL PROTECTION

SUBCHAPTER IV—INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

§1411. Findings and policy

(a) Findings

The Congress finds the following:

- (1) The yellowfin tuna fishery of the eastern tropical Pacific Ocean has resulted in the deaths of millions of dolphins.
- (2) Significant awareness and increased concern for the health and safety of dolphin populations has encouraged a change in fishing methods worldwide.
- (3) United States tuna fishing vessels have led the world in the development of fishing methods to reduce dolphin mortalities in the eastern tropical Pacific Ocean and United States tuna processing companies have voluntarily promoted the marketing of tuna that is dolphin safe.
- (4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have demonstrated their willingness to participate in appropriate multilateral agreements to reduce dolphin mortality progressively to a level approaching zero through the setting of annual limits, with the goal of eliminating dolphin mortality in that fishery. Recognition of the International Dolphin Conservation Program will assure that the existing trend of reduced dolphin mortality continues; that individual stocks of dolphins are adequately protected; and that the goal of eliminating all dolphin mortality continues to be a priority.

(b) Policy

It is the policy of the United States to—

- (1) eliminate the marine mammal mortality resulting from the intentional encirclement of dolphins and other marine mammals in tuna purse seine fisheries;
- (2) support the International Dolphin Conservation Program and efforts within the Program to reduce, with the goal of eliminating, the mortality referred to in paragraph (1);
- (3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught with driftnets or caught by purse seine vessels in the eastern tropical Pacific Ocean not operating in compliance with the International Dolphin Conservation Program;
- (4) secure appropriate multilateral agreements to ensure that United States tuna fishing vessels shall have continued access to productive tuna fishing grounds in the South Pacific Ocean and elsewhere; and
- (5) encourage observer coverage on purse seine vessels fishing for tuna outside of the eastern tropical Pacific Ocean in a fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, and in which tuna is harvested through the use of purse seine nets deployed on or to encircle marine mammals.

(Pub. L. 92–522, title III, §301, as added Pub. L. 102–523, §2(a), Oct. 26, 1992, 106 Stat. 3425; amended Pub. L. 105–42, §6(b), Aug. 15, 1997, 111 Stat. 1129.)

EDITORIAL NOTES

CODIFICATION

Another section 301 of Pub. L. 92–522 was renumbered section 401 and is classified to section 1421 of this title.

AMENDMENTS

1997—Subsec. (a)(4). Pub. L. 105–42, §6(b)(1), added par. (4) and struck out former par. (4) which read as follows: "Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have indicated their willingness to participate in appropriate multilateral agreements to reduce, and eventually eliminate, dolphin mortality in that fishery."

Subsec. (b)(2), (3). Pub. L. 105–42, §6(b)(2), added pars. (2) and (3) and struck out former pars. (2) and (3) which read as follows:

"(2) secure appropriate multilateral agreements to reduce, and eventually eliminate, the mortality referred to in paragraph (1);

"(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught in association with dolphins or with driftnets;"

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

§1412. International Dolphin Conservation Program

The Secretary of State, in consultation with the Secretary, shall seek to secure a binding international agreement to establish an International Dolphin Conservation Program that requires—

(1) that the total annual dolphin mortality in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean shall not exceed 5,000 animals with a commitment and objective to progressively reduce dolphin mortality to a level approaching zero through the setting of annual limits;

(2) the establishment of a per-stock per-year dolphin mortality limit, to be in effect through calendar year 2000, at a level between 0.2 percent and 0.1 percent of the minimum population estimate, as calculated, revised, or approved by the Secretary;

(3) the establishment of a per-stock per-year dolphin mortality limit, beginning with the calendar year 2001, at a level less than or equal to 0.1 percent of the minimum population estimate as calculated, revised, or approved by the Secretary;

(4) that if a dolphin mortality limit is exceeded under—

(A) paragraph (1), all sets on dolphins shall cease for the applicable fishing year; and

(B) paragraph (2) or (3), all sets on the stocks covered under paragraph (2) or (3) and any mixed schools that contain any of those stocks shall cease for the applicable fishing year;

(5) a scientific review and assessment to be conducted in calendar year 1998 to—

(A) assess progress in meeting the objectives set for calendar year 2000 under paragraph (2); and

(B) as appropriate, consider recommendations for meeting these objectives;

(6) a scientific review and assessment to be conducted in calendar year 2000—

(A) to review the stocks covered under paragraph (3); and

(B) as appropriate to consider recommendations to further the objectives set under that paragraph;

(7) the establishment of a per vessel maximum annual dolphin mortality limit consistent with the established per-year mortality limits, as determined under paragraphs (1) through (3); and

(8) the provision of a system of incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality.

(Pub. L. 92–522, title III, §302, as added Pub. L. 105–42, [§6\(c\)](#), [Aug. 15, 1997](#), 111 Stat. 1130.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1412, Pub. L. 92–522, title III, §302, as added Pub. L. 102–523, [§2\(a\)](#), [Oct. 26, 1992](#), 106 Stat. 3426, related to international agreements to establish global moratorium to prohibit certain tuna harvesting practices prior to repeal by Pub. L. 105–42, [§6\(c\)](#), [Aug. 15, 1997](#), 111 Stat. 1130.

A prior section 302 of Pub. L. 92–522 was renumbered section 402 and is classified to section 1421a of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

For effective date of section, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§1413. Regulatory authority of Secretary

(a) Regulations

(1) The Secretary shall issue regulations, and revise those regulations as may be appropriate, to implement the International Dolphin Conservation Program.

(2)(A) The Secretary shall issue regulations to authorize and govern the taking of marine mammals in the eastern tropical Pacific Ocean, including any species of marine mammal designated as depleted under this chapter but not listed as endangered or threatened under the Endangered Species Act (16 U.S.C. 1531 et seq.), by vessels of the United States participating in the International Dolphin Conservation Program.

(B) Regulations issued under this section shall include provisions—

- (i) requiring observers on each vessel;
- (ii) requiring use of the backdown procedure or other procedures equally or more effective in avoiding mortality of, or serious injury to, marine mammals in fishing operations;
- (iii) prohibiting intentional sets on stocks and schools in accordance with the International Dolphin Conservation Program;
- (iv) requiring the use of special equipment, including dolphin safety panels in nets, monitoring devices as identified by the International Dolphin Conservation Program to detect unsafe fishing conditions that may cause high incidental dolphin mortality before nets are deployed by a tuna vessel, operable rafts, speedboats with towing bridles, floodlights in operable condition, and diving masks and snorkels;
- (v) ensuring that the backdown procedure during sets of purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than 30 minutes before sundown;
- (vi) banning the use of explosive devices in all purse seine operations;
- (vii) establishing per vessel maximum annual dolphin mortality limits, total dolphin mortality limits and per-stock per-year mortality limits in accordance with the International Dolphin Conservation Program;
- (viii) preventing the making of intentional sets on dolphins after reaching either the vessel maximum annual dolphin mortality limits, total dolphin mortality limits, or per-stock per-year mortality limits;
- (ix) preventing the fishing on dolphins by a vessel without an assigned vessel dolphin mortality limit;
- (x) allowing for the authorization and conduct of experimental fishing operations, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce or eliminate dolphin mortality or serious injury do not require the encirclement of dolphins in the course of commercial yellowfin tuna fishing;
- (xi) authorizing fishing within the area covered by the International Dolphin Conservation Program by vessels of the United States without the use of special equipment or nets if the vessel takes an observer and does not intentionally deploy nets on, or encircle, dolphins, under such terms and conditions as the Secretary may prescribe; and
- (xii) containing such other restrictions and requirements as the Secretary determines are necessary to implement the International Dolphin Conservation Program with respect to vessels of the United States.

(C) ADJUSTMENTS TO REQUIREMENTS.—The Secretary may make such adjustments as may be appropriate to requirements of subparagraph (B) that pertain to fishing gear, vessel equipment, and fishing practices to the extent the adjustments are consistent with the International Dolphin Conservation Program.

(b) Consultation

In developing any regulation under this section, the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission appointed under section 952 of this title.

(c) Emergency regulations

(1) If the Secretary determines, on the basis of the best scientific information available (including research conducted under section 1414a of this title and information obtained under the International Dolphin Conservation Program) that the incidental mortality and serious injury of marine mammals authorized under this subchapter is having, or is likely to have, a significant adverse impact on a marine mammal stock or species, the Secretary shall—

(A) notify the Inter-American Tropical Tuna Commission of his or her determination, along with recommendations to the Commission as to actions necessary to reduce incidental mortality and serious injury and mitigate such adverse impact; and

(B) prescribe emergency regulations to reduce incidental mortality and serious injury and mitigate such adverse impact.

(2) Before taking action under subparagraph (A) or (B) of paragraph (1), the Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the United States Commissioners to the Inter-American Tropical Tuna Commission.

(3) Emergency regulations prescribed under this subsection—

(A) shall be published in the Federal Register, together with an explanation thereof;

(B) shall remain in effect for the duration of the applicable fishing year; and
(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines that the reasons for the emergency action no longer exist.

(4) If the Secretary finds that the incidental mortality and serious injury of marine mammals in the yellowfin tuna fishery in the eastern tropical Pacific Ocean is continuing to have a significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for such additional periods as may be necessary.

(5) Within 120 days after the Secretary notifies the United States Commissioners to the Inter-American Tropical Tuna Commission of the Secretary's determination under paragraph (1)(A), the United States Commissioners shall call for a special meeting of the Commission to address the actions necessary to reduce incidental mortality and serious injury and mitigate the adverse impact which resulted in the determination. The Commissioners shall report the results of the special meeting in writing to the Secretary and to the Secretary of State. In their report, the Commissioners shall—

(A) include a description of the actions taken by the harvesting nations or under the International Dolphin Conservation Program to reduce the incidental mortality and serious injury and measures to mitigate the adverse impact on the marine mammal species or stock;

(B) indicate whether, in their judgment, the actions taken address the problem adequately; and

(C) if they indicate that the actions taken do not address the problem adequately, include recommendations of such additional action to be taken as may be necessary.

(Pub. L. 92–522, title III, §303, as added Pub. L. 105–42, §6(c), Aug. 15, 1997, 111 Stat. 1131.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Endangered Species Act, referred to in subsec. (a)(2)(A), probably means the Endangered Species Act of 1973, 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.

PRIOR PROVISIONS

A prior section 1413, Pub. L. 92–522, title III, §303, as added Pub. L. 102–523, §2(a), Oct. 26, 1992, 106 Stat. 3426, related to research programs prior to repeal by Pub. L. 105–42, §6(c), Aug. 15, 1997, 111 Stat. 1130.

A prior section 303 of Pub. L. 92–522 was renumbered section 403 and is classified to section 1421b of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

For effective date of section, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§1414. Repealed. Pub. L. 105–42, §6(c), Aug. 15, 1997, 111 Stat. 1130

Section, Pub. L. 92–522, title III, §304, as added Pub. L. 102–523, §2(a), Oct. 26, 1992, 106 Stat. 3428, related to reviews, reports, and recommendations by Secretary of Commerce.

A prior section 304 of Pub. L. 92–522 was renumbered section 404 and is classified to section 1421c of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§1414a. Research

(a) Required research

(1) In general

The Secretary shall, in consultation with the Marine Mammal Commission and the Inter-American Tropical Tuna Commission, conduct a study of the effect of intentional encirclement (including chase) on dolphins and dolphin stocks incidentally taken in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean. The study, which shall commence on October 1, 1997, shall consist of abundance surveys as described in paragraph (2) and stress studies as described in paragraph (3), and shall address the question of whether such encirclement is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean.

(2) Population abundance surveys

The abundance surveys under this subsection shall survey the abundance of such depleted stocks and shall be conducted during each of the calendar years 1998, 1999, and 2000.

(3) Stress studies

The stress studies under this subsection shall include—

- (A) a review of relevant stress-related research and a 3-year series of necropsy samples from dolphins obtained by commercial vessels;
- (B) a 1-year review of relevant historical demographic and biological data related to dolphins and dolphin stocks referred to in paragraph (1); and
- (C) an experiment involving the repeated chasing and capturing of dolphins by means of intentional encirclement.

(4) Report

No later than 90 days after publishing the finding under subsection (g)(2) of section 1385 of this title, the Secretary shall complete and submit a report containing the results of the research described in this subsection to the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committees on Resources and on Commerce, and to the Inter-American Tropical Tuna Commission.

(b) Other research

(1) In general

In addition to conducting the research described in subsection (a), the Secretary shall, in consultation with the Marine Mammal Commission and in cooperation with the nations participating in the International Dolphin Conservation Program and the Inter-American Tropical Tuna Commission, undertake or support appropriate scientific research to further the goals of the International Dolphin Conservation Program.

(2) Specific areas of research

Research carried out under paragraph (1) may include—

- (A) projects to devise cost-effective fishing methods and gear so as to reduce, with the goal of eliminating, the incidental mortality and serious injury of marine mammals in connection with commercial purse seine fishing in the eastern tropical Pacific Ocean;
- (B) projects to develop cost-effective methods of fishing for mature yellowfin tuna without setting nets on dolphins or other marine mammals;
- (C) projects to carry out stock assessments for those marine mammal species and marine mammal stocks taken in the purse seine fishery for yellowfin tuna in the eastern tropical Pacific Ocean, including species or stocks not within waters under the jurisdiction of the United States; and
- (D) projects to determine the extent to which the incidental take of nontarget species, including juvenile tuna, occurs in the course of purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, the geographic location of the incidental take, and the impact of that incidental take on tuna stocks and nontarget species.

(c) Authorization of appropriations

(1) There are authorized to be appropriated to the Secretary the following amounts, to be used by the Secretary to carry out the research described in subsection (a):

- (A) \$4,000,000 for fiscal year 1998.
- (B) \$3,000,000 for fiscal year 1999.
- (C) \$4,000,000 for fiscal year 2000.
- (D) \$1,000,000 for fiscal year 2001.

(2) In addition to the amount authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Secretary for carrying out this section \$3,000,000 for each of the fiscal years 1998, 1999, 2000, and 2001.

(Pub. L. 92–522, title III, §304, as added Pub. L. 105–42, §6(c), Aug. 15, 1997, 111 Stat. 1133.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 304 of Pub. L. 92–522 was classified to section 1414 of this title prior to repeal by Pub. L. 105–42.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§1415. Reports by Secretary

Notwithstanding section 1373(f) of this title, the Secretary shall submit annual reports to the Congress which include

- (1) results of research conducted pursuant to section 1414a of this title;
- (2) a description of the status and trends of stocks of tuna;
- (3) a description of the efforts to assess, avoid, reduce, and minimize the bycatch of juvenile yellowfin tuna and bycatch of nontarget species;
- (4) a description of the activities of the International Dolphin Conservation Program and of the efforts of the United States in support of the Program's goals and objectives, including the protection of dolphin stocks in the eastern tropical Pacific Ocean, and an assessment of the effectiveness of the Program;
- (5) actions taken by the Secretary under section 1371(a)(2)(B) of this title and section 1371(d) of this title;
- (6) copies of any relevant resolutions and decisions of the Inter-American Tropical Tuna Commission, and any regulations promulgated by the Secretary under this subchapter; and
- (7) any other information deemed relevant by the Secretary.

(Pub. L. 92–522, title III, §305, as added Pub. L. 105–42, §6(c), Aug. 15, 1997, 111 Stat. 1134.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1415, Pub. L. 92–522, title III, §305, as added Pub. L. 102–523, §2(a), Oct. 26, 1992, 106 Stat. 3428, related to international commitments, prior to repeal by Pub. L. 105–42, §6(c), Aug. 15, 1997, 111 Stat. 1130.

A prior section 305 of Pub. L. 92–522 was renumbered section 405 and is classified to section 1421d of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

For effective date of section, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§1416. Permits

(a) In general

(1) Consistent with the regulations issued pursuant to section 1413 of this title, the Secretary shall issue a permit to a vessel of the United States authorizing participation in the International Dolphin Conservation Program and may require a permit for the person actually in charge of and controlling the fishing operation of the vessel. The Secretary shall prescribe such procedures as are necessary to carry out this subsection, including requiring the submission of—

- (A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof; and
- (B) the tonnage, hold capacity, speed, processing equipment, and type and quantity of gear, including an inventory of special equipment required under section 1413 of this title, with respect to each vessel.

(2) The Secretary is authorized to charge a fee for granting an authorization and issuing a permit under this section. The level of fees charged under this paragraph may not exceed the administrative cost incurred in granting an

authorization and issuing a permit. Fees collected under this paragraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in granting authorizations and issuing permits under this section.

(3) After the effective date of the International Dolphin Conservation Program Act, no vessel of the United States shall operate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean without a valid permit issued under this section.

(b) Permit sanctions

(1) In any case in which—

(A) a vessel for which a permit has been issued under this section has been used in the commission of an act prohibited under section 1417 of this title;

(B) the owner or operator of any such vessel or any other person who has applied for or been issued a permit under this section has acted in violation of section 1417 of this title; or

(C) any civil penalty or criminal fine imposed on a vessel, owner or operator of a vessel, or other person who has applied for or been issued a permit under this section has not been paid or is overdue,

the Secretary may—

(i) revoke any permit with respect to such vessel, with or without prejudice to the issuance of subsequent permits;

(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

(iii) deny such permit; or

(iv) impose additional conditions or restrictions on any permit issued to, or applied for by, any such vessel or person under this section.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and other such matters as justice requires.

(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of transfer.

(4) In the case of any permit that is suspended for the failure to pay a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this section unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this subchapter or otherwise.

(Pub. L. 92–522, title III, §306, as added Pub. L. 105–42, §6(c), Aug. 15, 1997, 111 Stat. 1135.)

EDITORIAL NOTES

REFERENCES IN TEXT

For effective date of the International Dolphin Conservation Program Act [Pub. L. 105–42], referred to in subsec. (a)(3), see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

PRIOR PROVISIONS

A prior section 1416, Pub. L. 92–522, title III, §306, as added Pub. L. 102–523, §2(a), Oct. 26, 1992, 106 Stat. 3430, related to permits for taking dolphins, prior to repeal by Pub. L. 105–42, §6(c), Aug. 15, 1997, 111 Stat. 1130.

A prior section 306 of Pub. L. 92–522 was renumbered section 406 and is classified to section 1421e of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

For effective date of section, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

§1417. Prohibitions

(a) In general

It is unlawful—

(1) for any person to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product unless the tuna or tuna product is either dolphin safe or has been harvested in compliance with the International Dolphin Conservation Program by a country that is 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;

(2) except as provided for in subsection ¹ 1371(d) of this title, for any person or vessel subject to the jurisdiction of the United States intentionally to set a purse seine net on or to encircle any marine mammal in the course of tuna fishing operations in the eastern tropical Pacific Ocean except in accordance with this subchapter and regulations issued pursuant to this subchapter; and ²

(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 1371(a)(2) of this title;

(4) for any person to violate any regulation promulgated under this subchapter;

(5) for any person to refuse to permit any duly authorized officer to board a vessel subject to that person's control for purposes of conducting any search or inspection in connection with the enforcement of this subchapter; and

(6) for any person to assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in paragraph (5).

(b) Penalties

(1) Civil penalty

A person that knowingly and willfully violates subsection (a)(1), (2), (3), (4), or (5) shall be subject to a civil penalty under section 1375(a) of this title.

(2) Criminal penalty

A person that knowingly and willfully violates subsection (a)(5) or (a)(6) shall be subject to a criminal penalty under section 1375(b) of this title.

(c) Civil forfeitures

Any vessel (including its fishing gear, appurtenances, stores, and cargo) used, and any fish (or its fair market value) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by this section shall be subject to forfeiture to the United States in the manner provided in section 1860 of this title.

(Pub. L. 92–522, title III, §307, as added Pub. L. 102–523, §2(a), Oct. 26, 1992, 106 Stat. 3431; amended Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41; Pub. L. 105–42, §6(d), Aug. 15, 1997, 111 Stat. 1136.)

EDITORIAL NOTES

CODIFICATION

Another section 307 of Pub. L. 92–522 was renumbered section 407 and is classified to section 1421f of this title.

AMENDMENTS

1997—Subsec. (a)(1) to (3). Pub. L. 105–42, §6(d)(1), added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

"(1) for any person, after June 1, 1994, to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product that is not dolphin safe;

"(2) for any person or vessel that is subject to the jurisdiction of the United States, intentionally to set a purse seine net on or to encircle any marine mammal during any tuna fishing operation after February 28, 1994, except—

"(A) as necessary for scientific research approved by the Inter-American Tropical Tuna Commission;

"(B) in accordance with a recommendation that is approved under section 1412(c)(2) of this title; or

"(C) as authorized by the general permit issued to the American Tunaboat Association on December 1, 1980 (including any additional restrictions applicable under section 1416(a) of this title), notwithstanding any agreement under section 1412 of this title with a country that is not a major purse seine tuna fishing country (as that term is defined in section 1416(c) of this title);

"(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 1415(b)(1) or (2) of this title;"

Subsec. (b)(2). Pub. L. 105–42, §6(d)(2), inserted "(a)(5) or" before "(a)(6)".

Subsec. (d). Pub. L. 105–42, §6(d)(3), struck out heading and text of subsec. (d). Text read as follows: "For purposes of this section, tuna or a tuna product is dolphin safe if—

"(1) it does not contain tuna that was harvested on the high seas by a vessel engaged in driftnet fishing, as that term is defined in section 4003 of the Driftnet Impact, Monitoring, Assessment, and Control Act of 1987;

"(2) in the case of tuna or a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean, it is dolphin safe under subsection (d)(2) of section 1385 of this title;

"(3) in the case of tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel, it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; and

"(4) in the case of tuna or a product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel in a fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, and in which tuna is harvested through the use of purse seine nets deployed on or to encircle marine mammals, it is accompanied by a written statement executed by the captain of the vessel and by an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested."

1996—Subsec. (c). Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1860 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

For effective date of amendment by Pub. L. 105–42, see section 8 of Pub. L. 105–42, set out as a note under section 1362 of this title.

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.

¹ *So in original. Probably should be "section".*

² *So in original. The word "and" probably should not appear.*

§1418. Repealed. Pub. L. 105–42, §6(e), Aug. 15, 1997, 111 Stat. 1137

Section, Pub. L. 92–522, title III, §308, as added Pub. L. 102–523, [§2\(a\)](#), [Oct. 26, 1992](#), 106 Stat. 3432, related to authorization of appropriations.

Another section 308 of Pub. L. 92–522 was renumbered section 409, and is classified to section 1421g of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 8 of Pub. L. 105–42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.