

States participates involving the taking of marine mammals on lands. If at any time the Secretary finds that any such program cannot be administered on lands owned by the United States or in which the United States has an interest in a manner consistent with the purposes of policies of this chapter, he shall suspend the operation of that program and shall include in the annual report to the public and the Congress required under section 1373(f) of this title his reasons for such suspension, together with recommendations for such legislation as he deems necessary and appropriate to resolve the problem.

**(e) Measures to alleviate impacts on strategic stocks**

If the Secretary determines, based on a stock assessment under section 1386 of this title or other significant new information obtained under this chapter, that impacts on rookeries, mating grounds, or other areas of similar ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, the Secretary may develop and implement conservation or management measures to alleviate those impacts. Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment.

(Pub. L. 92-522, title I, § 112, Oct. 21, 1972, 86 Stat. 1042; Pub. L. 96-470, title II, § 201(e), Oct. 19, 1980, 94 Stat. 2241; Pub. L. 102-587, title III, § 3004(a)(3), Nov. 4, 1992, 106 Stat. 5067; Pub. L. 103-238, §§ 7(a), 24(c)(11), Apr. 30, 1994, 108 Stat. 542, 566.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-238, § 24(c)(11), made technical amendment to reference to subchapter V of this chapter to reflect renumbering of corresponding title of original act.

Subsec. (e). Pub. L. 103-238, § 7(a), added subsec. (e).

1992—Subsec. (c). Pub. L. 102-587 inserted “or subchapter V of this chapter” after “of this subchapter”.

1980—Subsec. (d). Pub. L. 96-470 substituted “include in the annual report to the public and the Congress required under section 1373(f) of this title” for “forthwith submit to Congress”.

**§ 1383. Application to other treaties and conventions**

**(a) Generally; findings; waiver of penalties**

The provisions of this subchapter shall be deemed to be in addition to and not in contravention of the provisions of any existing international treaty, convention, or agreement, or any statute implementing the same, which may otherwise apply to the taking of marine mammals. Upon a finding by the Secretary that the provisions of any international treaty, convention, or agreement, or any statute implementing the same has been made applicable to persons subject to the provisions of this subchapter in order to effect essential compliance with the regulatory provisions of this chapter so as to reduce to the lowest practicable level the taking of marine mammals incidental to commercial fishing operations, section 1375 of this title may not apply to such persons.

**(b) Review of effectiveness of Agreement on the Conservation of Polar Bears**

Not later than 1 year after April 30, 1994, the Secretary of the Interior shall, in consultation with the contracting parties, initiate a review of the effectiveness of the Agreement on the Conservation of Polar Bears, as provided for in Article IX of the Agreement, and establish a process by which future reviews shall be conducted.

**(c) Review of implementation of Agreement on the Conservation of Polar Bears; report**

The Secretary of the Interior, in consultation with the Secretary of State and the Marine Mammal Commission, shall review the effectiveness of United States implementation of the Agreement on the Conservation of Polar Bears, particularly with respect to the habitat protection mandates contained in Article II. The Secretary shall report the results of this review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than April 1, 1995.

**(d) Consultation regarding conservation of polar bears in Russia and Alaska; report**

Not later than 6 months after April 30, 1994, the Secretary of the Interior, acting through the Secretary of State and in consultation with the Marine Mammal Commission and the State of Alaska, shall consult with the appropriate officials of the Russian Federation on the development and implementation of enhanced cooperative research and management programs for the conservation of polar bears in Alaska and Russia. The Secretary shall report the results of this consultation and provide periodic progress reports on the research and management programs to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.

(Pub. L. 92-522, title I, § 113, Oct. 21, 1972, 86 Stat. 1042; Pub. L. 103-238, § 7(b), Apr. 30, 1994, 108 Stat. 542.)

CODIFICATION

A prior subsec. (b) of section 113 of Pub. L. 92-522 amended section 659 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-238, § 7(b)(1), directed the amendment of this section by “designating the existing paragraph” as subsec. (a), notwithstanding the existing first par. of this section was already designated (a).

Subsecs. (b) to (d). Pub. L. 103-238, § 7(b)(2), added subsecs. (b) to (d). See Codification note above.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of

Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

**§ 1383a. Interim exemption for commercial fisheries**

**(a) Effective and termination dates of preemptive provisions; law governing incidental taking of marine mammals in course of commercial yellowfin tuna fishing**

(1) During the period beginning on November 23, 1988, and until superseded by regulations prescribed under section 1387 of this title, or until September 1, 1995, whichever is earlier, except as provided in paragraph (2), the provisions of this section, rather than sections 1371, 1373, and 1374 of this title, shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States and vessels which have valid fishing permits issued by the Secretary in accordance with section 1824(b) of this title. In any event it shall be the immediate goal that the incidental kill or 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.

(2) The provisions of this section other than subsection (e)(6)(A) of this section shall not govern the incidental taking of marine mammals in the course of commercial yellowfin tuna fishing subject to section 1374(h)(2) of this title.

**(b) Proposed and final list of fisheries taking marine mammals; publication in Federal Register; grant of exemption; conditions; suspension of grant of exemption; administration of exemption provisions; fees**

(1) The Secretary shall, after consultation with the Marine Mammal Commission—

(A) publish in the Federal Register, for public comment, not later than sixty days after November 23, 1988, a proposed list of those fisheries, along with a statement of the marine mammals and the approximate number of vessels or persons involved in each such fishery, that have—

- (i) frequent incidental taking of marine mammals;
- (ii) occasional incidental taking of marine mammals; or
- (iii) a remote likelihood of or no known incidental taking of marine mammals;

(B) publish in the Federal Register not later than one hundred and twenty days after November 23, 1988, a final list of the fisheries and other information required by paragraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an exemption and otherwise comply with the requirements of this section; and

(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered from the program established under subsections (c), (d), (e), and (f) of this section,

and other relevant sources and after notice and opportunity for public comment, the classification of fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

(2)(A) An exemption shall be granted by the Secretary in accordance with this section for a vessel engaged in a fishery identified under paragraph (1)(A)(i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner, the name and description of the vessel, the fisheries in which it will be engaged, and such other information as the Secretary considers necessary. A decal or other physical evidence that the exemption is current and valid shall be issued by the Secretary at the time an exemption is granted, and so long as the exemption remains current and valid, shall be reissued annually thereafter.

(B) No exemption may be granted under this section to the owner of a vessel unless such vessel—

- (i) is a vessel of the United States; or
- (ii) has a valid fishing permit issued by the Secretary in accordance with section 1824(b) of this title.

(C) Notwithstanding any other provision of this subchapter, exemptions granted under this section shall authorize the incidental taking of marine mammals, other than California sea otters, from any species or stock, including a population stock designated as depleted, but shall not authorize the intentional lethal taking of any Steller sea lion, any cetacean, or any marine mammals from a population stock designated as depleted.

(3)(A) Beginning two hundred and forty days after November 23, 1988, each owner of a vessel engaged in any fishery identified under paragraph (1)(A)(i) or (ii) shall, in order to engage lawfully in that fishery—

(i) have registered with the Secretary in order to obtain for each such vessel owned an exemption for the purpose of incidentally taking marine mammals in accordance with this section;

(ii) ensure that a decal or such other physical evidence of a current and valid exemption as the Secretary may require is displayed on or is in the possession of the master of each such vessel; and

(iii) report as required by subsection (c) of this section.

(B) Any owner of a vessel receiving an exemption under this section for any fishery identified under paragraph (1)(A)(i) shall, as a condition of that exemption, take on board a natural resource observer if requested to do so by the Secretary.

(C) An owner of a vessel engaged in a fishery identified under paragraph (1)(A)(i) or (ii) who—

(i) fails to obtain from the Secretary an exemption under this section;

(ii) fails to maintain a current and valid exemption; or

(iii) fails to ensure that a decal or other physical evidence of such exemption issued by the Secretary is displayed on or is in possession of the master of the vessel,