

sponse to a petition for a status review, the Secretary shall only make such a determination by issuance of a rule, after notice and opportunity for public comment and after a call for information in accordance with paragraph (2).

(2) The Secretary shall make any determination described in paragraph (1) solely on the basis of the best scientific information available. Prior to the issuance of a proposed rule concerning any such determination, the Secretary shall publish in the Federal Register a call to assist the Secretary in obtaining scientific information from individuals and organizations concerned with the conservation of marine mammals, from persons in any industry which might be affected by the determination, and from academic institutions. In addition, the Secretary shall utilize, to the extent the Secretary determines to be feasible, informal working groups of interested parties and other methods to gather the necessary information.

(3)(A) If the Secretary receives a petition for a status review as described in paragraph (1), the Secretary shall publish a notice in the Federal Register that such a petition has been received and is available for public review.

(B) Within sixty days after receipt of the petition, the Secretary shall publish a finding in the Federal Register as to whether the petition presents substantial information indicating that the petitioned action may be warranted.

(C) If the Secretary makes a positive finding under subparagraph (B), the Secretary shall include in the Federal Register notice, a finding that—

- (i) a review of the status of the species or stock will be commenced promptly; or
- (ii) a prompt review of the petition is precluded by other pending status determination petitions and that expeditious progress is being made to process pending status determination petitions under this subchapter.

In no case after making a finding under this subparagraph shall the Secretary delay commencing a review of the status of a species or stock for more than one hundred and twenty days after receipt of the petition.

(D) No later than two hundred and ten days after the receipt of the petition, the Secretary shall publish in the Federal Register a proposed rule as to the status of the species or stock, along with the reasons underlying the proposed status determination. Persons shall have at least sixty days to submit comments on such a proposed rule.

(E) Not later than ninety days after the close of the comment period on a proposed rule issued under subparagraph (D), the Secretary shall issue a final rule on the status of the species or stock involved, along with the reasons for the status determination. If the Secretary finds with respect to such a proposed rule that there is substantial disagreement regarding the sufficiency or accuracy of the available information relevant to a status determination, the Secretary may delay the issuance of a final rule for a period of not more than six months for purposes of soliciting additional information.

(F) Notwithstanding subparagraphs (D) and (E) of this paragraph and section 553 of title 5, the Secretary may issue a final rule as to the status

of a species or stock any time sixty or more days after a positive finding under subparagraph (B) if the Secretary determines there is substantial information available to warrant such final status determination and further delay would pose a significant risk to the well-being of any species or stock. Along with the final rule, the Secretary shall publish in the Federal Register detailed reasons for the expedited determination.

(b) Conservation plans; preparation and implementation

(1) The Secretary shall prepare conservation plans—

(A) By¹ December 31, 1989, for North Pacific fur seals;

(B) by December 31, 1990, for Steller sea lions; and

(C) as soon as possible, for any species or stock designated as depleted under this subchapter, except that a conservation plan need not be prepared if the Secretary determines that it will not promote the conservation of the species or stock.

(2) Each plan shall have the purpose of conserving and restoring the species or stock to its optimum sustainable population. The Secretary shall model such plans on recovery plans required under section 1533(f) of this title.

(3) The Secretary shall act expeditiously to implement each conservation plan prepared under paragraph (1). Each year, the Secretary shall specify in the annual report prepared under section 1373(f) of this title what measures have been taken to prepare and implement such plans.

(4) If the Secretary determines that a take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a strategic stock, or for species or stocks which interact with a commercial fishery for which the Secretary has made a determination under section 1387(f)(1) of this title, any conservation plan prepared under this subsection for such species or stock shall incorporate the take reduction plan required under section 1387 of this title for such species or stock.

(Pub. L. 92-522, title I, §115, as added Pub. L. 100-711, §3(a), Nov. 23, 1988, 102 Stat. 4763; amended Pub. L. 103-238, §8, Apr. 30, 1994, 108 Stat. 543.)

AMENDMENTS

1994—Subsec. (b)(4). Pub. L. 103-238 added par. (4).

§ 1384. Authorization of appropriations

(a) Department of Commerce

(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out its functions and responsibilities under this subchapter (other than sections 1386 and 1387 of this title) and subchapter V of this chapter, \$12,138,000 for fiscal year 1994, \$12,623,000 for fiscal year 1995, \$13,128,000 for fiscal year 1996, \$13,653,000 for fiscal year 1997, \$14,200,000 for fiscal year 1998, and \$14,768,000 for fiscal year 1999.

¹ So in original. Probably should not be capitalized.

(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 1386 and 1387 of this title, \$20,000,000 for each of the fiscal years 1994 through 1999.

(b) Department of the Interior

There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out its functions and responsibilities under this subchapter, \$8,000,000 for fiscal year 1994, \$8,600,000 for fiscal year 1995, \$9,000,000 for fiscal year 1996, \$9,400,000 for fiscal year 1997, \$9,900,000 for fiscal year 1998, and \$10,296,000 for fiscal year 1999.

(Pub. L. 92-522, title I, § 116, formerly § 114, Oct. 21, 1972, 86 Stat. 1043; Pub. L. 95-136, § 2, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 95-316, § 3, July 10, 1978, 92 Stat. 380; renumbered § 116, Pub. L. 100-711, § 2(a)(1), Nov. 23, 1988, 102 Stat. 4755; Pub. L. 103-238, § 9(a), Apr. 30, 1994, 108 Stat. 543.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 97-58, § 7(a), (b), Oct. 9, 1981, 95 Stat. 987; Pub. L. 98-364, title I, § 104(1), (2), July 17, 1984, 98 Stat. 442; Pub. L. 100-711, § 6(1), (2), Nov. 23, 1988, 102 Stat. 4771, prior to repeal by Pub. L. 103-238, § 9(c), Apr. 30, 1994, 108 Stat. 543.

AMENDMENTS

1994—Pub. L. 103-238 amended section generally. Prior to amendment, section read as follows:

“(a) There are authorized to be appropriated not to exceed \$2,000,000 for the fiscal year ending June 30, 1973, and the four next following fiscal years, not to exceed \$11,500,000 for the fiscal year ending September 30, 1978, not to exceed \$8,500,000 for the fiscal year ending September 30, 1979, not to exceed \$9,000,000 for the fiscal year ending September 30, 1980, and not to exceed \$9,500,000 for the fiscal year ending September 30, 1981, to enable the department in which the National Oceanic and Atmospheric Administration is operating to carry out such functions and responsibilities as it may have been given under this subchapter (other than sections 1379 and 1380 of this title).

“(b) There are authorized to be appropriated not to exceed \$700,000 for the fiscal year ending June 30, 1973, not to exceed \$525,000 for each of the next four fiscal years thereafter, not to exceed \$850,000 for the fiscal year ending September 30, 1978, not to exceed \$650,000 for the fiscal year ending September 30, 1979, not to exceed \$760,000 for the fiscal year ending September 30, 1980, and not to exceed \$876,000 for the fiscal year ending September 30, 1981 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this subchapter (other than sections 1379 and 1380 of this title).”

1978—Subsec. (a). Pub. L. 95-316, § 3(1), added reference to sections 1379 and 1380 of this title and provisions authorizing appropriations for the fiscal years ending Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981.

Subsec. (b). Pub. L. 95-316, § 3(2), added reference to sections 1379 and 1380 of this title and provisions authorizing appropriations for the fiscal years Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981.

1977—Subsec. (a). Pub. L. 95-136, § 2(1), inserted “, and not to exceed \$11,500,000 for the fiscal year ending September 30, 1978,” after “fiscal years”.

Subsec. (b). Pub. L. 95-136, § 2(2), inserted “, and not to exceed \$850,000 for the fiscal year ending September 30, 1978” after “thereafter”.

§ 1385. Dolphin protection

(a) Short title

This section may be cited as the “Dolphin Protection Consumer Information Act”.

(b) Findings

The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that such driftnets have on marine mammals, including dolphins; and

(3) consumers would like to know if the tuna they purchase is falsely labeled as to the effect of the harvesting of the tuna on dolphins.

(c) Definitions

For purposes of this section—

(1) the terms “driftnet” and “driftnet fishing” have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term “eastern tropical Pacific Ocean” means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term “label” means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term “Secretary” means the Secretary of Commerce; and

(5) the term “tuna product” means a food item which contains tuna and which has been processed for retail sale, except perishable sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) Labeling standard

(1) It is a violation of section 45 of title 15 for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term “dolphin safe” or any other term or symbol that falsely claims or suggests that the tuna contained in the product were harvested using a method of fishing that is not harmful to dolphins if the product contains tuna harvested—

(A) on the high seas by a vessel engaged in driftnet fishing;

(B) outside the eastern tropical Pacific Ocean by a vessel using purse seine nets—

(i) in a fishery in which the Secretary has determined that a regular and significant association occurs between dolphins and tuna (similar to the association between dolphins and tuna in the eastern tropical Pacific Ocean), unless such product is accompanied by a written statement, executed by the captain of the vessel and an observer participating in a national or international program acceptable to the Secretary, certifying that no purse seine net was intentionally deployed on or used to encircle dolphins during the particular voyage on which the tuna were caught and no dolphins were killed or seriously injured in the sets in which the tuna were caught; or