

AMENDMENTS

1984—Par. (5). Pub. L. 98-364 inserted “; except that no fewer than 11 employees must be employed under paragraph (1) at any time” at end.

1981—Par. (3). Pub. L. 97-58 substituted “contracts or agreements with, or provide such grants to, other organizations” for “contracts or agreements with other organizations”.

§ 1407. Authorization of appropriations

There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out this subchapter, \$1,500,000 for fiscal year 1994, \$1,550,000 for fiscal year 1995, \$1,600,000 for fiscal year 1996, \$1,650,000 for fiscal year 1997, \$1,700,000 for fiscal year 1998, and \$1,750,000 for fiscal year 1999.

(Pub. L. 92-522, title II, §207, Oct. 21, 1972, 86 Stat. 1046; Pub. L. 95-136, §3, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 95-316, §4, July 10, 1978, 92 Stat. 381; Pub. L. 103-238, §9(b), Apr. 30, 1994, 108 Stat. 543.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 97-58, §7(c), Oct. 9, 1981, 95 Stat. 987; Pub. L. 98-364, title I, §104(3), July 17, 1984, 98 Stat. 442; Pub. L. 100-711, §6(3), Nov. 23, 1988, 102 Stat. 4771, prior to repeal by Pub. L. 103-238, §9(c).

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1994—Pub. L. 103-238 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated for the fiscal year in which this subchapter is enacted and for the next five fiscal years thereafter such sums as may be necessary to carry out this subchapter, but the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed \$1,000,000, the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed \$2,000,000, the sum appropriated for the fiscal year ending September 30, 1979, shall not exceed \$1,000,000, the sum appropriated for the fiscal year ending September 30, 1980, shall not exceed \$1,000,000, and the sum appropriated for the fiscal year ending September 30, 1981, shall not exceed \$1,000,000.”

1978—Pub. L. 95-316 added provisions authorizing appropriations for the fiscal years ending Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981.

1977—Pub. L. 95-136 substituted “five fiscal years” for “four fiscal years” and “the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed \$1,000,000, and the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed \$2,000,000” for “the sums appropriated for any such year shall not exceed \$1,000,000” and struck out requirement that not less than two-thirds of the sums appropriated pursuant to this section for any such year be expended on research and studies under authority of section 1402(a)(2) and (3) of this title.

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.)

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;”.

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.)

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.

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;