

(Pub. L. 92-522, title I, § 110, Oct. 21, 1972, 86 Stat. 1041; Pub. L. 95-136, § 1, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 95-316, § 2, July 10, 1978, 92 Stat. 380; Pub. L. 97-58, § 5, Oct. 9, 1981, 95 Stat. 986; Pub. L. 100-711, § 4(e), Nov. 23, 1988, 102 Stat. 4768; Pub. L. 103-238, § 20, Apr. 30, 1994, 108 Stat. 560; Pub. L. 105-42, § 4(f), Aug. 15, 1997, 111 Stat. 1125.)

REFERENCES IN TEXT

Provisions of section 1373(f) of this title requiring annual reports to Congress, referred to in subsec. (d)(3), terminated, effective May 15, 2000. See Termination of Reporting Requirements note set out under section 1373 of this title.

Section 1404 of this title, referred to in subsec. (d)(3), was omitted from the Code.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-42 struck out “(1)” before “The Secretary is authorized” and struck out par. (2) which read as follows: “For purposes of identifying appropriate research into promising new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals, the Secretary shall contract for an independent review of information pertaining to such potential alternative methods to be conducted by the National Academy of Sciences with individuals having scientific, technical, or other expertise that may be relevant to the identification of promising alternative fishing techniques. The Secretary shall request that the independent review be submitted to the Secretary on or before September 8, 1989, and the Secretary shall submit the report of the independent review, together with a proposed plan for research, development, and implementation of alternative fishing techniques, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on or before December 5, 1989.”

1994—Subsecs. (c), (d). Pub. L. 103-238 added subsecs. (c) and (d) and struck out former subsec. (c) which authorized appropriations to be made available to the Secretary of Commerce and the Secretary of the Interior for purposes of carrying out this section for fiscal year ending June 30, 1973, to fiscal year ending Sept. 30, 1981.

1988—Subsec. (a). Pub. L. 100-711 designated existing provisions as par. (1) and added par. (2).

1981—Subsec. (a). Pub. L. 97-58 directed the Secretary to undertake a program of research into new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals and directed that the Secretary include a description of the annual results of that research in the report required under section 1373(f) of this title.

1978—Subsec. (c)(4) to (6). Pub. L. 95-316 added pars. (4) to (6).

1977—Subsec. (c). Pub. L. 95-136 incorporated existing provisions into text preceding par. (1) and, as so incorporated, struck out provisions authorizing to be appropriated such sums as may be necessary to carry out this section for the fiscal year in which this section takes effect and the next four years thereafter, limiting appropriations for any one year to \$2,500,000, and requiring that one-third of such sums be made available to the Secretary of the Interior and two-thirds of such sums be made available to the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating, and added pars. (1) to (3).

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

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.

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. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 1381. Commercial fisheries gear development**(a) Research and development program; report to Congress; authorization of appropriations**

The Secretary of the department in which the National Oceanic and Atmospheric Administration is operating (hereafter referred to in this section as the “Secretary”) is hereby authorized and directed to immediately undertake a program of research and development for the purpose of devising improved fishing methods and gear so as to reduce to the maximum extent practicable the incidental taking of marine mammals in connection with commercial fishing. At the end of the full twenty-four calendar month period following October 21, 1972, the Secretary shall deliver his report in writing to the Congress with respect to the results of such research and development. For the purposes of this section, there is hereby authorized to be appropriated the sum of \$1,000,000 for the fiscal year ending June 30, 1973, and the same amount for the next fiscal year. Funds appropriated for this section shall remain available until expended.

(b) Reduction of level of taking of marine mammals incidental to commercial fishing operations

The Secretary, after consultation with the Marine Mammal Commission, is authorized and directed to issue, as soon as practicable, such regulations, covering the twenty-four-month period referred to in section 1371(a)(2) of this title, as he deems necessary or advisable, to reduce to the lowest practicable level the taking of marine mammals incidental to commercial fishing operations. Such regulations shall be adopted pursuant to section 553 of title 5. In issuing such regulations, the Secretary shall take into account the results of any scientific research under subsection (a) of this section and, in each case, shall provide a reasonable time not exceeding four months for the persons affected to implement such regulations.

(c) Reduction of level of taking of marine mammals in tuna fishery

Additionally, the Secretary and Secretary of State are directed to commence negotiations within the Inter-American Tropical Tuna Commission in order to effect essential compliance with the regulatory provisions of this chapter so as to reduce to the maximum extent feasible the incidental taking of marine mammals by vessels involved in the tuna fishery. The Secretary and Secretary of State are further directed to request the Director of Investigations of the Inter-American Tropical Tuna Commission to make recommendations to all member nations of the Commission as soon as is practicable as to the utilization of methods and gear devised under subsection (a) of this section.

(d) Research and observation

Furthermore, after timely notice and during the period of research provided in this section, duly authorized agents of the Secretary are hereby empowered to board and to accompany any commercial fishing vessel documented under the laws of the United States, there being space available, on a regular fishing trip for the purpose of conducting research or observing operations in regard to the development of improved fishing methods and gear as authorized by this section. Such research and observation shall be carried out in such manner as to minimize interference with fishing operations. The Secretary shall provide for the cost of quartering and maintaining such agents. No master, operator, or owner of such a vessel shall impair or in any way interfere with the research or observation being carried out by agents of the Secretary pursuant to this section.

(Pub. L. 92-522, title I, § 111, Oct. 21, 1972, 86 Stat. 1041.)

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.

§ 1382. Regulations and administration**(a) Consultation with Federal agencies**

The Secretary, in consultation with any other Federal agency to the extent that such agency may be affected, shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subchapter.

(b) Cooperation by Federal agencies

Each Federal agency is authorized and directed to cooperate with the Secretary, in such manner as may be mutually agreeable, in carrying out the purposes of this subchapter.

(c) Contracts, leases, and cooperative agreements

The Secretary may enter into such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this subchapter or subchapter V and on such terms as he deems appropriate with any Federal or State agency, public or private institution, or other person.

(d) Annual review; suspension of program

The Secretary shall review annually the operation of each program in which the United 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 of¹ 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

¹ So in original.

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” 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”.

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.

§ 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 Arti-