

The Regulatory Flexibility Act, referred to in subsec. (d)(2), is Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1164, which is classified generally to chapter 6 (§601 et seq.) of Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 5 and Tables.

The Paperwork Reduction Act, referred to in subsec. (d)(2), probably means the Paperwork Reduction Act of 1980, Pub. L. 96-511, Dec. 11, 1980, 94 Stat. 2812, which was classified principally to chapter 35 (§3501 et seq.) of Title 44, Public Printing and Documents, prior to the general amendment of that chapter by the Paperwork Reduction Act of 1995, Pub. L. 104-13, §2, May 22, 1995, 109 Stat. 163. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of Title 44 and Tables.

Executive Order Numbered 12291, dated February 17, 1981, referred to in subsec. (d)(2), was formerly set out as a note under section 601 of Title 5, Government Organization and Employees, and was revoked by Ex. Ord. No. 12866, §11, Sept. 30, 1993, 58 F.R. 51735.

#### AMENDMENTS

1994—Subsec. (h)(1). Pub. L. 103-238 made technical amendment to reference to subchapter V of this chapter to reflect renumbering of corresponding title of original act.

1992—Subsec. (h)(1). Pub. L. 102-587 inserted “or subchapter V” after “this subchapter” in introductory provisions.

1988—Subsec. (b)(1)(E). Pub. L. 100-711, §5(e)(3)(A), substituted “research, public display, or enhancing the survival or recovery of a species or stock” for “research and public display purposes”.

Subsec. (b)(3)(B)(ii). Pub. L. 100-711, §5(e)(3)(B), substituted “research, public display, or enhancing the survival or recovery of a species or stock” for “research or public display purposes”.

Subsec. (h). Pub. L. 100-711, §5(a), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “Nothing in this subchapter shall prevent a Federal, State, or local government official or employee or a person designated under section 1382(c) of this title from taking, in the course of his duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for—

“(1) the protection or welfare of the mammal,

“(2) the protection of the public health and welfare, or

“(3) the nonlethal removal of nuisance animals,

and, in any case in which the return of the mammal to its natural habitat is feasible, includes steps designed to achieve that result.”

1981—Subsec. (a). Pub. L. 97-58, §4(a)(2), added subsec. (a). Former subsec. (a), relating to State regulation of the taking of marine mammals, was struck out.

Subsec. (b). Pub. L. 97-58, §4(a)(2), added subsec. (b). Former subsec. (b), relating to the making of grants to States by the Secretary, was struck out. See subsec. (j) of this section.

Subsecs. (c), (d). Pub. L. 97-58, §4(a)(1), (2), added subsecs. (c) and (d). Former subsecs. (c) and (d) redesignated (k) and (l), respectively.

Subsecs. (e) to (j). Pub. L. 97-58, §4(a)(2), added subsecs. (e) to (j).

Subsecs. (k), (l). Pub. L. 97-58, §4(a)(1), redesignated subsecs. (c) and (d) as (k) and (l), respectively.

1978—Subsec. (d). Pub. L. 95-316 added subsec. (d).

#### Statutory Notes and Related Subsidiaries

##### 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.

ENFORCEMENT BY HAWAII OF LAWS RELATING TO CONSERVATION AND MANAGEMENT OF HUMPBACK WHALES WITH RESPECT TO RECREATIONAL AND COMMERCIAL VESSELS

Pub. L. 108-447, div. B, title II, §213, Dec. 8, 2004, 118 Stat. 2884, provided that: “Hereafter, notwithstanding any other Federal law related to the conservation and management of marine mammals, the State of Hawaii may enforce any State law or regulation with respect to the operation in State waters of recreational and commercial vessels, for the purpose of conservation and management of humpback whales, to the extent that such law or regulation is no less restrictive than Federal law.”

##### COOPERATIVE AGREEMENTS UNDER ENDANGERED SPECIES ACT

Pub. L. 97-58, §4(b), Oct. 9, 1981, 95 Stat. 986, provided that: “Nothing in the amendments made by subsection (a) [amending this section] shall be construed as affecting in any manner, or to any extent, any cooperative agreement entered into by a State under section 6(c) of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) before, on, or after the date of the enactment of this Act [Oct. 9, 1981].”

#### § 1380. Marine mammal research grants

##### (a) Authorization; research concerning yellowfin tuna; annual report

The Secretary is authorized to make grants, or to provide financial assistance in such other form as he deems appropriate, to any Federal or State agency, public or private institution, or other person for the purpose of assisting such agency, institution, or person to undertake research in subjects which are relevant to the protection and conservation of marine mammals. In carrying out this subsection, the Secretary shall undertake a program of, and shall provide financial assistance for, research into new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals. The Secretary shall include a description of the annual results of research carried out under this section in the report required under section 1373(f) of this title.

##### (b) Terms and conditions

Any grant or other financial assistance provided by the Secretary pursuant to this section shall be subject to such terms and conditions as the Secretary deems necessary to protect the interests of the United States and shall be made after review by the Marine Mammal Commission.

##### (c) Gulf of Maine ecosystem protection

(1) No later than 1 year after April 30, 1994, the Secretary of Commerce shall convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health and stability of that marine ecosystem, of which marine mammals are a part. The workshop shall be conducted in consultation with the Marine Mammal Commission, the adjacent coastal States, individuals with expertise in marine mammal biology and ecology, representatives from environ-

mental organizations, the fishing industry, and other appropriate persons. The goal of the workshop shall be to identify such factors, and to recommend a program of research and management to restore or maintain that marine ecosystem and its key components that—

(A) protects and encourages marine mammals to develop to the greatest extent feasible commensurate with sound policies of resource management;

(B) has as the primary management objective the maintenance of the health and stability of the marine ecosystems;

(C) ensures the fullest possible range of management options for future generations; and

(D) permits nonwasteful, environmentally sound development of renewable and non-renewable resources.

(2) On or before December 31, 1995, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report containing the results of the workshop under this subsection, proposed regulatory or research actions, and recommended legislative action.

#### (d) Bering Sea ecosystem protection

(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, and Alaska Native organizations, shall, not later than 180 days after April 30, 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses.

(2) To the maximum extent practicable, the research program undertaken pursuant to paragraph (1) shall be conducted in Alaska. The Secretary of Commerce shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 1373(f) and 1404 of this title.<sup>1</sup>

(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.)

<sup>1</sup> See References in Text note below.

## Editorial Notes

### 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).

## 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

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.)

### **Statutory Notes and Related Subsidiaries**

#### **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 of<sup>1</sup> 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.

<sup>1</sup> So in original.