

the Interior, and with input from affected stakeholders, shall develop and deploy mitigation protocols that make use of any monitoring system designed and deployed under this section to direct sector-specific mitigation measures that avoid and significantly reduce risk of serious injury and mortality to North Atlantic right whales.

(f) Access to data

The Under Secretary shall provide access to data generated by any monitoring system designed and deployed under this section for purposes of scientific research and evaluation and public awareness and education, including through the Right Whale Sighting Advisory System of the National Oceanic and Atmospheric Administration and WhaleMap or other successor public website portals, subject to review for national security considerations.

(g) Additional authority

The Under Secretary may enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out this section on such terms as the Under Secretary considers appropriate, consistent with the Federal Acquisition Regulation.

(h) Savings clause

An activity may not be carried out under this section if the Secretary of Defense, in consultation with the Under Secretary, determines that the activity would negatively impact the defense readiness or the national security of the United States.

(i) Funding

From funds otherwise appropriated to the Under Secretary \$5,000,000 is authorized to support development, deployment, application, and ongoing maintenance of the Program and to otherwise carry out this section for each of fiscal years 2023 through 2027.

(Pub. L. 117-263, div. K, title CXIII, §11303, Dec. 23, 2022, 136 Stat. 4072.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Don Young Coast Guard Authorization Act of 2022 and also as part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, and not as part of the Marine Mammal Protection Act of 1972 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definition of “Secretary” as used in this section, see section 11002 of div. K of Pub. L. 117-263, set out as a note under section 106 of Title 14, Coast Guard.

For definitions of terms used in this section, see section 11301 of div. K of Pub. L. 117-263, set out as a note under section 1390 of this title.

§ 1392. Monitoring ocean soundscapes

(a) In general

The Under Secretary shall maintain and expand an ocean soundscape development program to—

- (1) award grants to expand the deployment of Federal and non-Federal observing and data

management systems capable of collecting measurements of underwater sound for purposes of monitoring and analyzing baselines and trends in the underwater soundscape to protect and manage marine life;

- (2) continue to develop and apply standardized forms of measurements to assess sounds produced by marine animals, physical processes, and anthropogenic activities; and

- (3) after coordinating with the Secretary of Defense, coordinate and make accessible to the public the datasets, modeling and analysis, and user-driven products and tools resulting from observations of underwater sound funded through grants awarded under paragraph (1).

(b) Coordination

The program described in subsection (a) shall—

- (1) include the Ocean Noise Reference Station Network of the National Oceanic and Atmospheric Administration and the National Park Service;

- (2) use and coordinate with the Integrated Ocean Observing System; and

- (3) coordinate with the Regional Ocean Partnerships and the Director of the United States Fish and Wildlife Service, as appropriate.

(c) Priority

In awarding grants under subsection (a), the Under Secretary shall consider the geographic diversity of the recipients of such grants.

(d) Savings clause

An activity may not be carried out under this section if the Secretary of Defense, in consultation with the Under Secretary, determines that the activity would negatively impact the defense readiness or the national security of the United States.

(e) Funding

From funds otherwise appropriated to the Under Secretary, \$1,500,000 is authorized for each of fiscal years 2023 through 2028 to carry out this section.

(Pub. L. 117-263, div. K, title CXIII, §11305, Dec. 23, 2022, 136 Stat. 4077.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Don Young Coast Guard Authorization Act of 2022 and also as part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, and not as part of the Marine Mammal Protection Act of 1972 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of terms used in this section, see section 11301 of div. K of Pub. L. 117-263, set out as a note under section 1390 of this title.

§ 1393. Conservation and mitigation assistance

(a) Assistance

(1) In general

Not later than 180 days after December 29, 2022, the Secretary of Commerce, acting

through the Under Secretary of Commerce for Oceans and Atmosphere (in this title¹ referred to as the “Under Secretary”) shall establish a program to provide competitive financial assistance, on an annual basis, and cooperative agreements including multiyear grants and direct payment, to eligible entities for eligible uses, such as projects designed to reduce the lethal and sub-lethal effects of human activities on North Atlantic right whales.

(2) Use of existing authorities

Assistance provided under this section shall be carried out in a manner consistent with authorities available to the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(3) Cooperative agreements

The Under Secretary may enter into cooperative agreements with the National Fish and Wildlife Foundation established by the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.) to carry out this title.¹

(b) Eligible entities

An entity is an eligible entity for purposes of assistance awarded under subsection (a) if the entity is—

- (1) a relevant port authority for a port;
- (2) a relevant State, regional, local, or Tribal government;
- (3) any other individual or entity, as determined appropriate by the Under Secretary, including—
 - (A) an owner or operator of a vessel, as defined under section 3 of title 1; and
 - (B) participants within sectors of the maritime industry, such as boating, shipping, fishing, fishing gear and rope manufacturing, and other maritime activities;
- (4) a nonprofit organization or research institution with expertise in commercial fisheries, gear innovation, and North Atlantic right whale conservation; or
- (5) a consortium of entities described in paragraphs (1) through (4).

(c) Eligible uses

Assistance awarded under subsection (a) may be used to develop, assess, and carry out activities that reduce human induced threats to North Atlantic right whales, including—

- (1) funding research to identify, deploy, or test innovative gear technologies;
- (2) subsidizing acquisition of innovative gear technologies to improve adoption of those technologies by fisheries participants, which may include direct payment to fisheries participants;
- (3) training for fisheries participants to improve deployment, safety, and adoption of innovative gear technologies;
- (4) funding for monitoring necessary to support dynamic management of fisheries, vessel traffic, or other needs; and
- (5) other uses as determined by the Under Secretary in consultation with relevant eligible entities.

¹ See References in Text note below.

(d) Priority

In determining whether to fund project proposals under this section, the Under Secretary shall prioritize projects—

- (1) with a substantial likelihood of reducing lethal and sub-lethal effects on North Atlantic right whales from fishing gear entanglements or vessel collisions;
- (2) that include cooperation with fishing industry participants or other private sector stakeholders; and
- (3) that demonstrate, or have the potential to provide, economic benefits to small businesses based in the United States.

(e) Prohibited uses

(1) In general

Except as provided in paragraph (2), funds awarded under this section may not be used to distribute resources to an entity or individual that is not a United States person (as defined in section 7701(a)(3) of title 26).

(2) Exception

Funds awarded under this section may be used to distribute resources to a partnership that includes an entity or individual that is not a United States person (as defined in section 7701(a)(30) of title 26) if the resources are distributed directly to a partner in the partnership that is a United States person (as so defined).

(f) Project reporting

(1) In general

Each individual or entity that receives assistance under this section for a project shall submit to the Under Secretary periodic reports (at such intervals as the Under Secretary may require) that include all information that the Under Secretary, after consultation with other government officials, determines is necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) Availability to the public

Reports under paragraph (1) shall be made available to the public in a timely manner.

(Pub. L. 117-328, div. JJ, title II, §201, Dec. 29, 2022, 136 Stat. 6090.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in subsec. (a)(1), (3), means title II of div. JJ of Pub. L. 117-328, which enacted this section and provisions set out as notes under this section. For complete classification of title II to the Code, see Tables.

The Endangered Species Act of 1973, referred to in subsec. (a)(2), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Marine Mammal Protection Act of 1972, referred to in subsec. (a)(2), is Pub. L. 92-522, Oct. 21, 1972, 86 Stat. 1027, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The National Fish and Wildlife Foundation Establishment Act, referred to in subsec. (a)(3), is Pub. L. 98-244, Mar. 26, 1984, 98 Stat. 107, which is classified generally to chapter 57 (§3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title.

CODIFICATION

Section was enacted as part of the Consolidated Appropriations Act, 2023, and not as part of the Marine Mammal Protection Act of 1972 which comprises this chapter.

Statutory Notes and Related Subsidiaries

REPORT TO CONGRESS

Pub. L. 117-328, div. JJ, title II, §202, Dec. 29, 2022, 136 Stat. 6092, provided that: “Not later than 2 years after the date of enactment of this Act [Dec. 29, 2022], and every 5 years thereafter, the Under Secretary [of Commerce for Oceans and Atmosphere] shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on the results and effectiveness of projects receiving assistance provided under this title [enacting this section and provisions set out as notes under this section].”

ACCEPTANCE AND USE OF DONATIONS

Pub. L. 117-328, div. JJ, title II, §203(b), Dec. 29, 2022, 136 Stat. 6092, provided that: “The Under Secretary [of Commerce for Oceans and Atmosphere] may accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, consistent with policy of the Department of Commerce in effect on the date of enactment of this Act [Dec. 29, 2022], to provide assistance under section 201 [16 U.S.C. 1393].”

SUBCHAPTER III—MARINE MAMMAL COMMISSION

§ 1401. Establishment

(a) Designation

There is hereby established the Marine Mammal Commission (hereafter referred to in this subchapter as the “Commission”).

(b) Membership and term of office

(1) Effective September 1, 1982, the Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall make his selection from a list of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals. Such list shall be submitted to him by the Chairman of the Council on Environmental Quality and unanimously agreed to by that Chairman, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation and the Chairman of the National Academy of Sciences. No member of the Commission may, during his period of service on the Commission, hold any other position as an officer or employee of the United States except as a retired officer or retired civilian employee of the United States.

(2) The term of office for each member shall be three years; except that of the members initially appointed to the Commission, the term of one member shall be for one year, the term of one member shall be for two years, and the term of one member shall be for three years. No mem-

ber is eligible for reappointment; except that any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed (A) shall be appointed for the remainder of such term, and (B) is eligible for reappointment for one full term. A member may serve after the expiration of his term until his successor has taken office.

(c) Chairman

The President shall designate a Chairman of the Commission (hereafter referred to in this subchapter as the “Chairman”) from among its members.

(d) Compensation; reimbursement for travel expenses

Members of the Commission shall each be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(e) Executive Director

The Commission shall have an Executive Director, who shall be appointed (without regard to the provisions of title 5 governing appointments in the competitive service) by the Chairman with the approval of the Commission and shall be paid at a rate not in excess of the rate for GS-18 of the General Schedule under section 5332 of title 5. The Executive Director shall have such duties as the Chairman may assign.

(Pub. L. 92-522, title II, §201, Oct. 21, 1972, 86 Stat. 1043; Pub. L. 97-389, title II, §202, Dec. 29, 1982, 96 Stat. 1951; Pub. L. 98-364, title I, §103(a), July 17, 1984, 98 Stat. 441.)

Editorial Notes

AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-364 substituted “The President shall make his selection from a list of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals. Such list shall be submitted to him by the Chairman of the Council on Environmental Quality and unanimously agreed to by that Chairman, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation and the Chairman of the National Academy of Sciences” for “The President shall make his selection from a list, submitted to him by the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences, of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals”.

1982—Subsec. (b)(1). Pub. L. 97-389 inserted requirement that, effective Sept. 1, 1982, the three members of the Commission be appointed by and with the advice and consent of the Senate.

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.