

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 member 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.

**REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES**

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

**§ 1402. Duties of Commission****(a) Reports and recommendations**

The Commission shall—

(1) undertake a review and study of the activities of the United States pursuant to existing laws and international conventions relating to marine mammals, including, but not limited to, the International Convention for the Regulation of Whaling, the Whaling Convention Act of 1949 [16 U.S.C. 916 et seq.], the Interim Convention on the Conservation of North Pacific Fur Seals, and the Fur Seal Act of 1966 [16 U.S.C. 1151 et seq.];

(2) conduct a continuing review of the condition of the stocks of marine mammals, of methods for their protection and conservation, of humane means of taking marine mammals, of research programs conducted or proposed to be conducted under the authority of this chapter, and of all applications for permits for scientific research, public display, or enhancing the survival or recovery of a species or stock;

(3) undertake or cause to be undertaken such other studies as it deems necessary or desirable in connection with its assigned duties as to the protection and conservation of marine mammals;

(4) recommend to the Secretary and to other Federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals;

(5) recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals, and suggest appropriate international arrangements for the protection and conservation of marine mammals;

(6) recommend to the Secretary such revisions of the endangered species list and threatened species list published pursuant to section 1533(c)(1) of this title, as may be appropriate with regard to marine mammals; and

(7) recommend to the Secretary, other appropriate Federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of this chapter, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to this chapter.

**(b) Consultation with Secretary; reports to Secretary before publication**

The Commission shall consult with the Secretary at such intervals as it or he may deem desirable, and shall provide each annual report required under section 1404<sup>1</sup> of this title, before submission to Congress, to the Secretary for comment.

**(c) Availability of reports for public inspection**

The reports and recommendations which the Commission makes shall be matters of public record and shall be available to the public at all reasonable times. All other activities of the Commission shall be matters of public record and available to the public in accordance with the provisions of section 552 of title 5.

**(d) Recommendations; explanation for nonadoption**

Any recommendations made by the Commission to the Secretary and other Federal officials shall be responded to by those individuals within one hundred and twenty days after receipt thereof. Any recommendations which are not followed or adopted shall be referred to the Commission together with a detailed explanation of the reasons why those recommendations were not followed or adopted.

(Pub. L. 92-522, title II, § 202, Oct. 21, 1972, 86 Stat. 1044; Pub. L. 93-205, § 13(e)(4), Dec. 28, 1973, 87 Stat. 903; Pub. L. 97-58, § 6(1), Oct. 9, 1981, 95 Stat. 987; Pub. L. 100-711, § 5(e)(4), Nov. 23, 1988, 102 Stat. 4771.)

**Editorial Notes****REFERENCES IN TEXT**

The Whaling Convention Act of 1949, referred to in subsec. (a)(1), is act Aug. 9, 1950, ch. 653, 64 Stat. 421, which is classified generally to subchapter II (§ 916 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 916 of this title and Tables.

The Fur Seal Act of 1966, referred to in subsec. (a)(1), is Pub. L. 89-702, Nov. 2, 1966, 80 Stat. 1091, which is classified generally to chapter 24 (§ 1151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1151 of this title and Tables.

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