

“(1) for any person, after June 1, 1994, to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product that is not dolphin safe;

“(2) for any person or vessel that is subject to the jurisdiction of the United States, intentionally to set a purse seine net on or to encircle any marine mammal during any tuna fishing operation after February 28, 1994, except—

“(A) as necessary for scientific research approved by the Inter-American Tropical Tuna Commission;

“(B) in accordance with a recommendation that is approved under section 1412(c)(2) of this title; or

“(C) as authorized by the general permit issued to the American Tunaboat Association on December 1, 1980 (including any additional restrictions applicable under section 1416(a) of this title), notwithstanding any agreement under section 1412 of this title with a country that is not a major purse seine tuna fishing country (as that term is defined in section 1416(c) of this title);

“(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 1415(b)(1) or (2) of this title;”.

Subsec. (b)(2). Pub. L. 105-42, §6(d)(2), inserted “(a)(5) or” before “(a)(6)”.

Subsec. (d). Pub. L. 105-42, §6(d)(3), struck out heading and text of subsec. (d). Text read as follows: “For purposes of this section, tuna or a tuna product is dolphin safe if—

“(1) it does not contain tuna that was harvested on the high seas by a vessel engaged in driftnet fishing, as that term is defined in section 4003 of the Driftnet Impact, Monitoring, Assessment, and Control Act of 1987;

“(2) in the case of tuna or a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean, it is dolphin safe under subsection (d)(2) of section 1385 of this title;

“(3) in the case of tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel, it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; and

“(4) in the case of tuna or a product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel 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, it is accompanied by a written statement executed by the captain of the vessel and by an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested.”

1996—Subsec. (c). Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1860 of this title.

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 OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

§ 1418. Repealed. Pub. L. 105-42, §6(e), Aug. 15, 1997, 111 Stat. 1137

Section, Pub. L. 92-522, title III, §308, as added Pub. L. 102-523, §2(a), Oct. 26, 1992, 106 Stat. 3432, related to authorization of appropriations.

Another section 308 of Pub. L. 92-522 was renumbered section 409, and is classified to section 1421g of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 8 of Pub. L. 105-42, set out as an Effective Date of 1997 Amendment note under section 1362 of this title.

SUBCHAPTER V—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

§ 1421. Establishment of Program

(a) Establishment

The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, establish a program to be known as the “Marine Mammal Health and Stranding Response Program”.

(b) Purposes

The purposes of the Program shall be to—

(1) facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild;

(2) correlate the health of marine mammals and marine mammal populations, in the wild, with available data on physical, chemical, and biological environmental parameters; and

(3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with section 1421c of this title.

(Pub. L. 92-522, title IV, §401, formerly title III, §301, as added Pub. L. 102-587, title III, §3003(a), Nov. 4, 1992, 106 Stat. 5060; renumbered title IV, §401, and amended Pub. L. 103-238, §24(b), (c)(1), Apr. 30, 1994, 108 Stat. 565, 566.)

Editorial Notes

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103-238, §24(c)(1), made technical amendment to reference to section 1421c of this title to reflect renumbering of corresponding section of original act.

Statutory Notes and Related Subsidiaries

FINDINGS

Pub. L. 102-587, title III, §3002, Nov. 4, 1992, 106 Stat. 5060, provided that: “The Congress finds the following:

“(1) Current stranding network participants have performed an undeniably valuable and ceaseless job of responding to marine mammal strandings over the last 15 years.

“(2) Insufficient understanding of the connection between marine mammal health and the physical, chemical, and biological parameters of their environ-

ment prevents an adequate understanding of the causes of marine mammal unusual mortality events.

“(3) An accurate assessment of marine mammal health, health trends in marine mammal populations in the wild, and causes of marine mammal unusual mortality events cannot be made without adequate reference data on marine mammals and the environment in which they live.

“(4) A systematic assessment of the sources, presence, levels, and effects of potentially harmful contaminants on marine mammals would provide a better understanding of some of the causes of marine mammal unusual mortality events and may serve as an indicator of the general health of our coastal and marine environments.

“(5) Responses to marine mammal unusual mortality events are often uncoordinated, due to the lack of sufficient contingency planning.

“(6) Standardized methods for the reporting of dying, dead, or otherwise incapacitated marine mammals in the wild would greatly assist in the determination of the causes of marine mammal unusual mortality events and enhance general knowledge of marine mammal species.

“(7) A formal system for collection, preparation, and archiving of, and providing access to, marine mammal tissues will enhance efforts to investigate the health of marine mammals and health trends of marine mammal populations, and to develop reference data.

“(8) Information on marine mammals, including results of analyses of marine mammal tissues, should be broadly available to the scientific community, including stranding network participants, through a marine mammal data base.”

§ 1421a. Determination; data collection and dissemination

(a) Determination for release

The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

(b) Collection

The Secretary shall, in consultation with the Secretary of the Interior, collect and update, periodically, existing information on—

(1) procedures and practices for—

(A) rescuing and rehabilitating stranded or entangled marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

(3) strandings and entanglements, including unusual mortality events, which the Secretary shall compile and analyze, by stranding region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded

marine mammals and entangled marine mammals to allow comparison of the causes of illness and deaths in stranded marine mammals and entangled marine mammals with physical, chemical, and biological environmental parameters; and

(4) other life history and reference level data, including marine mammal tissue analyses.

(c) Information required to be submitted and collected

(1) In general

After each response to a stranding or entanglement event, the Secretary shall collect (including from any staff of the National Oceanic and Atmospheric Administration that respond directly to such an event), and shall require each stranding network participant who responds to that stranding or entanglement to submit to the Administrator of the National Oceanic and Atmospheric Administration or the Director of the United States Fish and Wildlife Service—

(A) data on the stranding event, including NOAA Form 89-864 (OMB #0648-0178), NOAA Form 89-878 (OMB #0648-0178), similar successor forms, or similar information in an appropriate format required by the United States Fish and Wildlife Service for species under its management authority;

(B) supplemental data to the data described in subparagraph (A), which may include, as available, relevant information about—

- (i) weather and tide conditions;
 - (ii) offshore human, predator, or prey activity;
 - (iii) morphometrics;
 - (iv) behavior;
 - (v) health assessments;
 - (vi) life history samples; or
 - (vii) stomach and intestinal contents;
- and

(C) data and results from laboratory analysis of tissues, which may include, as appropriate and available—

- (i) histopathology;
- (ii) toxicology;
- (iii) microbiology;
- (iv) virology; or
- (v) parasitology.

(2) Timeline

A stranding network participant shall submit—

(A) the data described in paragraph (1)(A) not later than 30 days after the date of a response to a stranding or entanglement event;

(B) the compiled data described in paragraph (1)(B) not later than 30 days after the date on which the data is available to the stranding network participant; and

(C) the compiled data described in paragraph (1)(C) not later than 30 days after the date on which the laboratory analysis has been reported to the stranding network participant.

(3) Online data input system

The Secretary, acting through the Under Secretary of Commerce for Oceans and Atmos-