

## Definitions

### *16 U.S.C. 1362*

**Sec. 3.** For the purposes of this chapter—

(1) The term “depletion” or “depleted” means any case in which—

(A) the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under subchapter III of this chapter, determines that a species or population stock is below its optimum sustainable population;

(B) a State, to which authority for the conservation and management of a species or population stock is transferred under section 1379 of this title, determines that such species or stock is below its optimum sustainable population; or

(C) a species or population stock is listed as an endangered species or a threatened species under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.].

(2) The terms “conservation” and “management” means the collection and application of biological information for the purposes of increasing and maintaining the number of animals within species and populations of marine mammals at their optimum sustainable population. Such terms include the entire scope of activities that constitute a modern scientific resource program, including, but not limited to, research, census, law enforcement, and habitat acquisition and improvement. Also included within these terms, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

(3) The term “district court of the United States” includes the District Court of Guam, District Court of the Virgin Islands, District Court of Puerto Rico, District Court of the Canal Zone, and, in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii.

(4) The term “humane” in the context of the taking of a marine mammal means that method of taking which involves the least possible degree of pain and suffering practicable to the mammal involved.

(5) The term “intermediary nation” means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 1371 (a)(2)(B) of this title.

(6) The term “marine mammal” means any mammal which

(A) is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia and Cetacea), or

(B) primarily inhabits the marine environment (such as the polar bear); and, for the purposes of this chapter, includes any part of any such marine mammal, including its raw, dressed, or dyed fur or skin.

(7) The term “marine mammal product” means any item of merchandise which consists, or is composed in whole or in part, of any marine mammal.

(8) The term “moratorium” means a complete cessation of the taking of marine mammals and a complete ban on the importation into the United States of marine mammals and marine mammal products, except as provided in this chapter.

(9) The term “optimum sustainable population” means, with respect to any population stock, the number of animals which will result in the maximum productivity of the

population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

(10) The term “person” includes

(A) any private person or entity, and

(B) any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(11) The term “population stock” or “stock” means a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature.

(12)

(A) Except as provided in subparagraph (B), the term “Secretary” means—

(i) the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating, as to all responsibility, authority, funding, and duties under this chapter with respect to members of the order Cetacea and members, other than walruses, of the order Pinnipedia, and

(ii) the Secretary of the Interior as to all responsibility, authority, funding, and duties under this chapter with respect to all other marine mammals covered by this chapter.

(B) in [1] section 1387 of this title and subchapter V of this chapter (other than section 1421f-1 of this title) the term “Secretary” means the Secretary of Commerce.

(13) The term “take” means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

(14) The term “United States” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and Northern Mariana Islands.

(15) The term “waters under the jurisdiction of the United States” means—

(A) the territorial sea of the United States;

(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the other boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

(16) The term “fishery” means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(17) The term “competent regional organization”—

(A) for the tuna fishery in the eastern tropical Pacific Ocean, means the Inter-American Tropical Tuna Commission; and

(B) in any other case, means an organization consisting of those nations participating in a tuna fishery, the purpose of which is the conservation and management of that fishery and the management of issues relating to that fishery.

(18)

(A) The term “harassment” means any act of pursuit, torment, or annoyance which—

(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

(B) In the case of a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note ) or a scientific research activity conducted by or on behalf of the Federal Government consistent with section 1374 (c)(3) of this title, the term “harassment” means—

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild; or

(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered.

(C) The term “Level A harassment” means harassment described in subparagraph

(A)(i) or, in the case of a military readiness activity or scientific research activity described in subparagraph (B), harassment described in subparagraph (B)(i).

(D) The term “Level B harassment” means harassment described in subparagraph (A)(ii) or, in the case of a military readiness activity or scientific research activity described in subparagraph (B), harassment described in subparagraph (B)(ii).

(19) The term “strategic stock” means a marine mammal stock—

(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.] within the foreseeable future; or

(C) which is listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or is designated as depleted under this chapter.

(20) The term “potential biological removal level” means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

(A) The minimum population estimate of the stock.

(B) One-half the maximum theoretical or estimated net productivity rate of the stock at a small population size.

(C) A recovery factor of between 0.1 and 1.0.

(21) The term “Regional Fishery Management Council” means a Regional Fishery Management Council established under section 1852 of this title.

(22) The term “bona fide research” means scientific research on marine mammals, the results of which—

(A) likely would be accepted for publication in a referred scientific journal;

(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

(C) are likely to identify, evaluate, or resolve conservation problems.

(23) The term “Alaska Native organization” means a group designated by law or formally chartered which represents or consists of Indians, Aleuts, or Eskimos residing in Alaska.

(24) The term “take reduction plan” means a plan developed under section 1387 of this title.

(25) The term “take reduction team” means a team established under section 1387 of this title.

(26) The term “net productivity rate” means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

(27) The term “minimum population estimate” means an estimate of the number of animals in a stock that—

(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.

(28) The term “International Dolphin Conservation Program” means the international program established by the agreement signed in LaJolla, California, in June, 1992, as formalized, modified, and enhanced in accordance with the Declaration of Panama.

(29) The term “Declaration of Panama” means the declaration signed in Panama City, Republic of Panama, on October 4, 1995

## Effective Date

**Sec. 4.** The provisions of this Act shall take effect upon the expiration of the sixty-day period following the date of its enactment [December 21, 1972].