

(g) SECRETARIAL FINDINGS.--(1) Between March 1, 1999, and March 31, 1999, the Secretary shall, on the basis of the research conducted before March 1, 1999, under section 304(a) of the Marine Mammal Protection Act of 1972, information obtained under the International Dolphin Conservation Program, and any other relevant information, make an initial finding regarding whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean. The initial finding shall be published immediately in the Federal Register and shall become effective upon a subsequent date determined by the Secretary.

(2) Between July 1, 2001, and December 31, 2002, the Secretary shall, on the basis of the completed study conducted under section 304(a) of the Marine Mammal Protection Act of 1972, information obtained under the International Dolphin Conservation Program, and any other relevant information, make a finding regarding whether the intentional deployment on or encirclement of dolphins with purse seine nets is having a significant adverse impact on any depleted dolphin stock in the eastern tropical Pacific Ocean. The finding shall be published immediately in the Federal Register and shall become effective upon a subsequent date determined by the Secretary.

(h) CERTIFICATION BY CAPTAIN BY OBSERVER.--

(1) Unless otherwise required by paragraph (2), the certification by the captain under subsection (d)(2)(B)(i) and the certification provided by the observer as specified in subsection (d)(2)(B)(ii) shall be that no dolphins were killed or seriously injured during the sets in which the tuna were caught.

(2) The certification by the captain under subsection (d)(2)(B)(i) and the certification provided by the observer as specified under subsection (d)(2)(B)(ii) shall be that no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphins, and that no dolphins were killed or seriously injured during the sets in which the tuna were caught, if the tuna were caught on a trip commencing--

(A) before the effective date of the initial finding by the Secretary under subsection (g)(1);

(B) after the effective date of such initial finding and before the effective date of the finding of the Secretary under subsection (g)(2), where the initial finding is that the intentional deployment on or encirclement of dolphins is having a significant adverse impact on any depleted dolphin stock; or

(C) after the effective date of the finding under subsection (g)(2), where such finding is that the intentional deployment of or encirclement of dolphins is having a significant adverse impact on any such depleted stock.

Stock Assessments

16 U.S.C. 1386

Sec. 117. (a) IN GENERAL. — Not later than August 1, 1994, the Secretary shall, in consultation with the appropriate regional scientific review group established under subsection (d), prepare a draft stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

(2) provide for such stock the minimum population estimate, current and maximum net productivity rates, and current population trend, including a description of the information upon which these are based;

(3) estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

(4) describe commercial fisheries that interact with the stock, including—

(A) the approximate number of vessels actively participating in each such fishery;

(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

(C) seasonal or area differences in such incidental mortality or serious injury; and

(D) the rate, based on the appropriate standard unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

(5) categorize the status of the stock as one that either—

(A) has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

(B) is a strategic stock, with a description of the reasons therefor; and

(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

(b) PUBLIC COMMENT. —

(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 101(b) applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 101(b).

(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under subsection (d), and the comments of the general public, the Secretary shall publish in the Federal Register a notice of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

(A) the close of the public comment period on a draft stock assessment or revision thereof; or

(B) final action on an agency proceeding pursuant to paragraph (2).

(c) REVIEW AND REVISION. —

(1) The Secretary shall review stock assessments in accordance with this subsection—

(A) at least annually for stocks which are specified as strategic stocks;

(B) at least annually for stocks for which significant new information is available; and

(C) at least once every 3 years for all other stocks.

(2) If the review under paragraph (1) indicates that the status of the stock has changed or can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b).

(d) REGIONAL SCIENTIFIC REVIEW GROUPS. —

(1) Not later than 60 days after the date of enactment of this section [June 29, 1994], the Secretary of Commerce shall, in consultation with the Secretary of the Interior (with respect to marine mammals under that Secretary's jurisdiction), the Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish three independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico), consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b). The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific review group. The regional scientific review groups shall advise the Secretary on—

(A) population estimates and the population status and trends of such stocks;

(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

(D) research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations;

(E) the actual, expected, or potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks, and for strategic stocks, appropriate conservation or management measures to alleviate any such impacts; and

(F) any other issue which the Secretary or the groups consider appropriate.

(2) The scientific review groups established under this subsection shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

(3) Members of the scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

(4) The Secretary may appoint or reappoint individuals to the regional scientific review groups under paragraph (1) as needed.

(e) EFFECT ON SECTION 101(b). — This section shall not affect or otherwise modify the provisions of section 101(b).