

(3) reasonable care is exercised to prevent any further injury to the marine mammal;
and

(4) such taking is reported to the Secretary within 48 hours.

(e) ACT NOT TO APPLY TO INCIDENTAL TAKINGS BY UNITED STATES CITIZENS EMPLOYED ON FOREIGN VESSELS OUTSIDE THE UNITED STATES EEZ. — The provisions of this Act shall not apply to a citizen of the United States who incidentally takes any marine mammal during fishing operations outside the United States exclusive economic zone (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) when employed on a foreign fishing vessel of a harvesting nation which is in compliance with the International Dolphin Conservation Program.

Prohibitions

16 U.S.C. 1372

Sec. 102. (a) [TAKING.] — Except as provided in sections 101, 103, 104, 109, 111, 113, 114, and 118 of this title and title IV, it is unlawful—

(1) for any person subject to the jurisdiction of the United States or any vessel or other conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas;

(2) except as expressly provided for by an international treaty, convention, or agreement to which the United States is a party and which was entered into before the effective date of this title or by any statute implementing any such treaty, convention, or agreement—

(A) for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States; or

(B) for any person to use any port, harbor, or other place under the jurisdiction of the United States to take or import marine mammals or marine mammal products; and

(3) for any person, with respect to any marine mammal taken in violation of this title, to possess that mammal or any product from that mammal;

(4) for any person to transport, purchase, sell, export, or offer to purchase, sell, or export any marine mammal or marine mammal product—

(A) that is taken in violation of this Act; or

(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 104(c); and

(5) for any person to use, in a commercial fishery, any means or methods of fishing in contravention of any regulations or limitations, issued by the Secretary for that fishery to achieve the purposes of this Act.

(b) [IMPORTATION OF PREGNANT OR NURSING ANIMALS; DEPLETED SPECIES OR STOCK; INHUMANE TAKING.] — Except pursuant to a permit for scientific research, or for enhancing the survival or recovery of a species or stock, issued under section 104(c) of this title, it is unlawful to import into the United States any marine mammal if such mammal was—

(1) pregnant at the time of taking;

(2) nursing at the time of taking, or less than eight months old, whichever occurs later;

(3) taken from a species or population stock which the Secretary has, by regulation published in the Federal Register, designated as a depleted species or stock; or

(4) taken in a manner deemed inhumane by the Secretary.

Notwithstanding the provisions of paragraphs (1) and (2), the Secretary may issue a permit for the importation of a marine mammal, if the Secretary determines that such importation is necessary for the protection or welfare of the animal.

(c) [IMPORTATION OF ILLEGALLY TAKEN MAMMALS.] — It is unlawful to import into the United States any of the following:

(1) Any marine mammal which was—

(A) taken in violation of this title; or

(B) taken in another country in violation of the law of that country.

(2) Any marine mammal product if—

(A) the importation into the United States of the marine mammal from which such product is made is unlawful under paragraph (1) of this subsection; or

(B) the sale in commerce of such product in the country of origin of the product is illegal;

(3) Any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner which the Secretary has proscribed for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish.

(d) [NONAPPLICABILITY OF PROHIBITIONS.] — Subsections (b) and (c) of this section shall not apply—

(1) in the case of marine mammals or marine mammal products, as the case may be, to which subsection (b)(3) of this section applies, to such items imported into the United States before the date on which the Secretary publishes notice in the Federal Register of his proposed rulemaking with respect to the designation of the species or stock concerned as depleted; or

(2) in the case of marine mammals or marine mammal products to which subsection (c)(1)(B) or (c)(2)(B) of this section applies, to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

(e) [RETROACTIVE EFFECT.] — This Act shall not apply with respect to any marine mammal taken before the effective date of this Act [December 21, 1972], or to any marine mammal product consisting of, or composed in whole or in part of, any marine mammal taken before such date.

(f) [COMMERCIAL TAKING OF WHALES.] — It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States.

Regulations on Taking of Marine Mammals