

103^D CONGRESS
1ST SESSION

H. R. 2760

To authorize the Marine Mammal Protection Act for a period of 6 years, to establish a new regime to govern the incidental taking of marine mammals in the course of commercial fishing operations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1993

Mr. STUDDS (for himself, Mr. YOUNG of Alaska, Mr. FIELDS of Texas, Mr. MANTON, and Mr. SAXTON) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To authorize the Marine Mammal Protection Act for a period of 6 years, to establish a new regime to govern the incidental taking of marine mammals in the course of commercial fishing operations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marine Mammal Pro-
5 tection Act Amendments of 1993”.

1 **SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION**
2 **ACT OF 1972.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Marine Mammal Protec-
8 tion Act of 1972 (16 U.S.C. 1361 et seq.).

9 **SEC. 3. SMALL TAKE PROVISIONS.**

10 (a) Section 101(a)(4) (16 U.S.C. 1371(a)(4)) is
11 amended to read as follows:

12 “(4)(A) The Secretary shall allow the inciden-
13 tal, but not the intentional, lethal taking by citizens
14 of the United States while engaging in commercial
15 fishing operations of small numbers of marine mam-
16 mals listed as endangered species under the Endan-
17 gered Species Act of 1973 if the Secretary deter-
18 mines, after notice and opportunity for public com-
19 ment, that the total of such taking will not exceed
20 the potential biological removal level established for
21 that marine mammal stock or species under section
22 118(c).

23 “(B) For the purposes of this paragraph, a re-
24 quest for an authorization to incidentally lethally
25 take marine mammals that have been listed as en-
26 dangered species under the Endangered Species Act

1 of 1973 shall be considered to be sufficient to initi-
2 ate a consultation under section 7 of that Act.”.

3 **SEC. 4. PERMITS.**

4 Section 104 (16 U.S.C. 1374) is amended by striking
5 the period at the end of subsection (a) and inserting “ex-
6 cept for the incidental taking of marine mammals during
7 the course of commercial fishing operations.”.

8 **SEC. 5. CONSERVATION PLANS.**

9 Section 115(b) is amended—

10 (1) by striking the word “and” after the semi-
11 colon at the end of subparagraph (B);

12 (2) by striking the period at the end of sub-
13 paragraph (C) and inserting “; and”; and

14 (3) by adding at the end the following new sub-
15 paragraph:

16 “(D) within 6 months after determination of
17 critical status, for any species or stock determined to
18 be a critical stock under section 118.”.

19 **SEC. 6. TAKING OF MARINE MAMMALS INCIDENTAL TO**
20 **COMMERCIAL FISHING OPERATIONS.**

21 Title I (16 U.S.C. 1371 et seq.) is amended by adding
22 at the end the following new section:

23 “SEC. 118. (a) TAKING OF MARINE MAMMALS INCI-
24 DENTAL TO COMMERCIAL FISHING OPERATIONS.—

1 “(1) Effective on the date of the enactment of
2 the Marine Mammal Protection Act Amendments of
3 1993 and subject to subsection (d)(4), the provisions
4 of this section shall govern the incidental taking of
5 marine mammals in the course of commercial fishing
6 operations by persons using vessels of the United
7 States and vessels which have valid fishing permits
8 issued by the Secretary in accordance with section
9 204(b) of the Magnuson Fishery Conservation and
10 Management Act. In any event, it shall be the imme-
11 diate goal that the incidental kill or serious injury
12 of marine mammals permitted in the course of com-
13 mercial fishing operations be reduced to insignificant
14 levels approaching zero.

15 “(2) The provisions of the Endangered Species
16 Act of of 1973 and section 101 of this title and not
17 this section shall govern the incidental lethal taking
18 of marine mammals listed as endangered under the
19 Endangered Species Act of 1973.

20 “(3) The provisions of title III of this Act and
21 not this section shall govern the taking of marine
22 mammals in the course of commercial purse seine
23 fishing for yellowfin tuna.

24 “(4) The provisions of the Endangered Species
25 Act of 1973 and Public Law 99-625 and not this

1 section shall govern the incidental taking of Califor-
2 nia sea otters during the course of commercial fish-
3 ing operations.

4 “(b) SCIENTIFIC WORKING GROUP.—(1) Not later
5 than 60 days after the date of the enactment of the Ma-
6 rine Mammal Protection Act Amendments of 1993, the
7 Secretary, in consultation with the Marine Mammal Com-
8 mission and the Secretary of the Interior, shall establish
9 a Scientific Working Group consisting of individuals with
10 expertise in marine mammal biology and ecology, popu-
11 lation dynamics and modeling, and commercial fishing
12 technology and practices, to advise the Secretary regard-
13 ing—

14 “(A) population estimates for those marine
15 mammal stocks taken incidental to commercial fish-
16 ing operations;

17 “(B) the population status and trend of such
18 marine mammal stocks;

19 “(C) studies needed to resolve uncertainties re-
20 garding stock separation, abundance, or trends and
21 factors affecting the distribution, size, or productiv-
22 ity of the stock;

23 “(D) studies needed to resolve uncertainties re-
24 garding the species, numbers, ages, gender, and re-
25 productive status of marine mammals being inciden-

1 tally lethally taken in the course of commercial fish-
2 ing operations; and

3 “(E) research to identify modifications in fish-
4 ing gear and fishing practices likely to reduce the
5 mortality and serious injury of marine mammals in-
6 cidental to commercial fishing operations.

7 “(2) The Federal Advisory Committee Act shall not
8 apply to the Scientific Working Group.

9 “(c) STOCK ASSESSMENTS.—(1) Not later than 120
10 days after the date of the enactment of the Marine Mam-
11 mal Protection Act Amendments of 1993, the Secretary
12 shall provide to the Scientific Working Group established
13 under subsection (b) a preliminary stock assessment of all
14 marine mammal populations which occur in waters under
15 the jurisdiction of the United States. The preliminary
16 stock assessment shall include—

17 “(A) the area in which each stock or population
18 is located;

19 “(B) the best available estimates of minimum
20 population abundance, distribution, stock separation,
21 and current trend;

22 “(C) estimates of total lethal take by source for
23 each stock and other factors that may impede recov-
24 ery of that stock, including impacts on marine mam-
25 mal habitat and prey;

1 “(D) a list of commercial fisheries interacting
2 with each marine mammal stock, which includes—

3 “(i) the approximate number of vessels
4 participating in the fishery;

5 “(ii) the level of interaction, specifying fre-
6 quent, occasional, or rare incidental takes;

7 “(iii) seasonal or area changes in level of
8 take; and

9 “(iv) the rate at which takes occur, speci-
10 fying on a per day or per fishing operation
11 basis;

12 “(E) the stock’s status, specifying whether a
13 species, stock, or population has been identified as
14 having reached its optimum sustainable population,
15 is depleted, threatened, endangered, or critical; and

16 “(F) a potential biological removal level for
17 each stock and the factors used to calculate it.

18 “(2) The Scientific Working Group shall review the
19 preliminary stock assessment and provide comments and
20 recommendations to the Secretary not later than 60 days
21 from receipt.

22 “(3) The Secretary shall take the recommendations
23 of the Scientific Working Group into account and, not
24 later than 45 days after the receipt of such comments and

1 recommendations, shall make the revised stock assessment
2 available for public review and comment.

3 “(4) Not later than 1 year after the date of the enact-
4 ment of the Marine Mammal Protection Act Amendments
5 of 1993, the Secretary shall publish a final stock assess-
6 ment of all marine mammal stocks which occur in United
7 States waters. The assessment shall include all informa-
8 tion required under paragraph (1) and any other informa-
9 tion which the Secretary deems appropriate.

10 “(5) The Secretary shall review and publish, in con-
11 sultation with the Marine Mammal Commission, the Sec-
12 retary of the Interior, and the Scientific Working Group,
13 updated stock assessments—

14 “(A) on an annual basis for those stocks con-
15 sidered to be critical; and

16 “(B) at least once every 3 years for all other
17 marine mammal stocks.

18 “(d) AUTHORIZATION TO TAKE MARINE MAM-
19 MALS.—(1) Not later than 30 days after the date of the
20 publication of the final stock assessment as required under
21 subsection (c), the Secretary shall issue a general author-
22 ization for the incidental taking of marine mammals in
23 the course of commercial fishing operations. Such author-
24 ization shall be accompanied by regulations issued by the
25 Secretary requiring—

1 “(A) each vessel owner operating in a fishery
2 identified in the final stock assessment as interact-
3 ing with a marine mammal stock which has been—

4 “(i) listed as an endangered species or
5 threatened species under the Endangered Spe-
6 cies Act of 1973;

7 “(ii) designated as depleted under this Act;

8 or

9 “(iii) identified as critical under this sec-
10 tion,

11 to register with the Secretary by biennially complet-
12 ing a registration form providing the name of the
13 vessel owner, the name and description of the vessel,
14 the fisheries in which it will be engaged, and such
15 other information as the Secretary deems necessary;

16 “(B) each vessel required to register under sub-
17 paragraph (A) to display a decal or other physical
18 evidence issued by the Secretary indicating that the
19 registration is current;

20 “(C) all lethal takes of marine mammals to be
21 reported to the Secretary at the end of each fishing
22 trip;

23 “(D) each vessel to comply with all monitoring
24 requirements established by the Secretary as pro-
25 vided in subsection (f); and

1 “(E) any other terms and conditions which the
2 Secretary deems appropriate.

3 “(2) The Secretary is authorized to charge a fee for
4 the granting of an authorization under this section. The
5 level of fees charged under this paragraph shall not exceed
6 the administrative costs incurred in granting an authoriza-
7 tion. Fees collected under this paragraph shall be available
8 to the Under Secretary of Commerce for Oceans and At-
9 mosphere for expenses incurred in the granting and ad-
10 ministration of authorizations under this section.

11 “(3) The Secretary shall review information regard-
12 ing the incidental taking of marine mammals under the
13 general authorization and evaluate the effects of such inci-
14 dental taking on the affected marine mammal stocks. Inci-
15 dental lethal takes for each marine mammal stock shall
16 not exceed the potential biological removal level estab-
17 lished in the final stock assessment required under sub-
18 section (c). If the Secretary finds that the incidental tak-
19 ing of marine mammals in a fishery is likely to exceed
20 the potential biological removal level, the Secretary shall
21 immediately consult with the appropriate conservation
22 team established under subsection (e), Regional Councils,
23 and States, and prescribe emergency regulations to pre-
24 vent to the maximum extent practicable any further tak-

1 ing. Any emergency regulations prescribed under this
2 paragraph shall—

3 “(A) to the maximum extent practicable, avoid
4 interfering with existing State, interstate, or regional
5 management plans;

6 “(B) be published in the Federal Register; and

7 “(C) remain in effect until the Secretary deter-
8 mines that the reasons for the emergency regula-
9 tions no longer exist, or the end of the year for
10 which the annual potential biological removal was
11 calculated, whichever is earlier.

12 “(4) Until such time as the Secretary issues a general
13 authorization under this section for the incidental taking
14 of marine mammals during the course of commercial fish-
15 ing operations, the provisions of section 114 shall apply.

16 “(e) CONSERVATION TEAMS.—(1) The Secretary
17 shall establish a conservation team for each of the follow-
18 ing regions and the adjacent economic zone in which inci-
19 dental lethal takes of marine mammals occur:

20 “(A) NEW ENGLAND.—The New England re-
21 gion, consisting of the States of Maine, New Hamp-
22 shire, Massachusetts, Rhode Island, and Connecti-
23 cut.

1 “(B) MID-ATLANTIC.—The Mid-Atlantic region,
2 consisting of the States of New York, New Jersey,
3 Delaware, Maryland, and Virginia.

4 “(C) SOUTH ATLANTIC.—The South Atlantic
5 region, consisting of the States of North Carolina,
6 South Carolina, Georgia, and Florida.

7 “(D) GULF AND CARIBBEAN.—The Gulf of
8 Mexico and Caribbean region, consisting of the
9 States of Texas, Louisiana, Mississippi, Alabama,
10 Florida; the Virgin Islands, and the Commonwealth
11 of Puerto Rico.

12 “(E) PACIFIC.—The Pacific region, consisting
13 of the States of California, Washington, and Oregon.

14 “(F) WESTERN PACIFIC.—The Western Pacific
15 region, consisting of the State of Hawaii; Guam,
16 American Samoa, and the Northern Mariana Is-
17 lands.

18 “(G) NORTH PACIFIC.—The North Pacific re-
19 gion, consisting of the State of Alaska.

20 “(2) For those regions in which a marine mammal
21 stock has been identified as a critical stock, conservation
22 teams shall be established not later than 30 days after
23 the publication of the final stock assessment required
24 under subsection (c). For those regions in which no stock
25 has been identified as critical, conservation teams shall be

1 established not later than 60 days after the publication
2 of the final stock assessment.

3 “(3) Conservation team members may be drawn from
4 the National Marine Fisheries Service, the United States
5 Fish and Wildlife Service, the Marine Mammal Commis-
6 sion, States, Regional Councils, environmental organiza-
7 tions, the fishing industry, universities and scientific orga-
8 nizations, Alaska Native corporations, treaty tribes, and
9 others as the Secretary deems appropriate. Each conserva-
10 tion team shall have at least one member of the coinciding
11 Regional Council as a member. Conservation teams shall
12 consist of an equitable distribution of industry and
13 nonindustry representatives as practicable. Conservation
14 teams shall not be subject to the Federal Advisory Com-
15 mittee Act; however, meetings of the conservation teams
16 shall be open to the public.

17 “(4) It shall be the immediate goal of each conserva-
18 tion team to advise the Secretary, through the develop-
19 ment of a conservation plan, on methods of reducing lethal
20 incidental takes of marine mammals below the potential
21 biological removal levels established under subsection (c)
22 as quickly as possible, and on methods of reducing inciden-
23 tal lethal takes to insignificant levels approaching zero
24 within 10 years. In developing a conservation plan, con-

1 servation teams shall consult with the States and Regional
2 Councils.

3 “(5) In the case of those regions in which a marine
4 mammal stock has been identified as critical, and for
5 which total lethal takes are estimated to be greater than
6 the potential biological removal level established in the
7 stock assessment, the following provisions shall apply:

8 “(A) Not later than 6 months after the date of
9 the establishment of a conservation team, the team
10 shall submit a draft conservation plan for the critical
11 stock to the Secretary.

12 “(B) The Secretary shall take the draft con-
13 servation plan into consideration and, not later than
14 60 days after the submission of the draft conserva-
15 tion plan by the conservation team, the Secretary
16 shall publish a draft conservation plan and imple-
17 menting regulations for public review and comment.

18 “(C) In the event that the conservation team is
19 unable to submit a draft plan to the Secretary with-
20 in 6 months, the Secretary shall publish a proposed
21 plan and implementing regulations for public review
22 and comment:

23 “(D) Not later than 60 days after the close of
24 the comment period required under subparagraph

1 (B), the Secretary shall publish a final conservation
2 plan and implementing regulations.

3 “(E) The Secretary and the conservation team
4 shall continue to meet every six months to monitor
5 the progress of the conservation plan.

6 “(F) The Secretary may make adjustments to
7 the conservation plan and implementing regulations
8 as necessary, which shall be published for public re-
9 view and comment.

10 “(6) In the case of those regions in which a marine
11 mammal stock has been identified as critical, and for
12 which the total lethal takes are estimated to be less than
13 the potential biological removal level established in the
14 stock assessment, the following provisions shall apply:

15 “(A) No later than 11 months after the estab-
16 lishment of a conservation team, the team shall sub-
17 mit a draft conservation plan for the critical stock
18 to the Secretary.

19 “(B) the Secretary shall take the draft con-
20 servation plan into consideration and, not later than
21 60 days following the submission of the draft con-
22 servation plan by the conservation team, the Sec-
23 retary shall publish a draft conservation plan and
24 implementing regulations for public review and com-
25 ment.

1 “(C) in the event that the conservation team is
2 unable to submit a draft plan to the Secretary with-
3 in 11 months, the Secretary shall publish a proposed
4 plan and implementing regulations for public review
5 and comment.

6 “(D) Not later than 60 days after the close of
7 the comment period required under subparagraph
8 (B), the Secretary shall publish a final conservation
9 plan and implementing regulations.

10 “(E) The Secretary and the conservation team
11 shall continue to meet on an annual basis to monitor
12 the progress of the conservation plan.

13 “(F) The Secretary may make adjustments to
14 the conservation plan and implementing regulations
15 as necessary, which shall be published for public re-
16 view and comment.

17 “(f) MONITORING INCIDENTAL LETHAL TAKES.—(1)
18 The Secretary shall establish a program to monitor inci-
19 dental lethal takes of marine mammals during the course
20 of commercial fishing operations. The purposes of the
21 monitoring program shall be to—

22 “(A) determine potential changes in stock sta-
23 tus;

24 “(B) identify unusual changes in fishing meth-
25 ods, including the introduction of new or alternative

1 fishing gear or practices, and the initiation of experi-
2 mental fisheries;

3 “(C) determine methods of reducing incidental
4 lethal take levels; and

5 “(D) verify reporting of incidental lethal takes.

6 “(2) For each fishery operating under the general au-
7 thorization to incidentally lethally take marine mammals
8 as provided under subsection (d), and consistent with the
9 provisions of sections 114(e)(6) and 114(e)(7), the Sec-
10 retary shall require that vessels operating in that fishery
11 carry observers in order to obtain statistically reliable in-
12 formation required under this section. When determining
13 the distribution of observers among fisheries and vessels
14 within a fishery, the Secretary shall be guided by the fol-
15 lowing standards:

16 “(A) The requirement to obtain the best sci-
17 entific information available.

18 “(B) The requirement that assignment of ob-
19 servers is fair and equitable among fisheries and
20 among vessels in a fishery.

21 “(C) The requirement that no individual person
22 or vessel, or group of persons or vessels, be subject
23 to excessive or overly burdensome observer coverage.

24 “(D) Where practicable, the need to minimize
25 costs and avoid duplication.

1 “(3) To the extent practicable, the Secretary shall re-
2 quire that vessels carry observers consistent with the fol-
3 lowing priorities:

4 “(A) 20 percent of the vessels in those fisheries
5 with incidental lethal takes from marine mammal
6 stocks identified as endangered species or threatened
7 species under the Endangered Species Act of 1973
8 shall carry observers.

9 “(B) 20 percent of the vessels in those fisheries
10 with incidental lethal takes from marine mammal
11 stocks identified as critical shall carry observers.

12 “(C) 10 percent of those fisheries with high lev-
13 els of incidental lethal takes from any marine mam-
14 mal stock designated as depleted shall carry observ-
15 ers.

16 “(D) Observers may be required on vessels in
17 any other fishery in which incidental lethal takes are
18 likely to occur or in which the Secretary believes in-
19 cidental takes may be occurring.

20 “(4) The Secretary shall establish a list of supple-
21 mentary observer providers which shall consist of private
22 companies, academic institutions, State agencies, and
23 other appropriate entities which can provide qualified ob-
24 servers to a vessel required to carry an observer under
25 this subsection. A vessel owner may choose to employ a

1 supplementary observer provider to meet the requirements
2 of this subsection.

3 “(5) In order to be included in the list established
4 under paragraph (4), a supplementary observer provider
5 must demonstrate that—

6 “(A) individuals employed by the provider are
7 citizens or nationals of the United States and have
8 the requisite education or experience to carry out the
9 functions required under this subsection;

10 “(B) standards of conduct for observers have
11 been established equivalent to those applicable to
12 Federal personnel; and

13 “(C) a standard system exists of collecting,
14 analyzing, and reporting data at such time and in
15 such form as is satisfactory to the Secretary.

16 “(6)(A) Any information collected under this sub-
17 section shall be confidential and shall not be disclosed ex-
18 cept—

19 “(i) to Federal employees whose duties require
20 access to such information;

21 “(ii) to State employees pursuant to an agree-
22 ment with the Secretary that prevents public disclo-
23 sure of the identity or business of any person; or

24 “(iii) when required by court order.

1 “(B) The Secretary shall prescribe such procedures
2 as may be necessary to preserve such confidentiality, ex-
3 cept that the Secretary shall release or make public any
4 such information in aggregate, summary, or other form
5 which does not directly or indirectly disclose the identity
6 or business of any person.

7 “(g) PENALTIES AND ENFORCEMENT.—If the Sec-
8 retary determines that a person using a vessel of the Unit-
9 ed States or a vessel with a valid fishing permit issued
10 by the Secretary in accordance with section 204(b) of the
11 Magnuson Fishery Conservation and Management Act has
12 knowingly violated this section, the Secretary shall—

13 “(1) on the first occasion of noncompliance,
14 withdraw all fishing rights and privileges of that
15 person or vessel for 30 consecutive days;

16 “(2) on the second occasion of noncompliance,
17 withdraw all fishing rights and privileges of that
18 person or vessel for 6 consecutive months; and

19 “(3) use any other provisions of sections 105,
20 106, or 107 that the Secretary deems appropriate.
21 No penalty shall be assessed unless such person is given
22 notice and opportunity for a hearing with respect to such
23 violation. Any penalty may be remitted or mitigated by
24 the Secretary for good cause shown.

1 from States, environmental organizations, Alaska Native
2 corporations, treaty tribes, and others as the Secretary
3 deems appropriate.

4 “(3) The Pinniped Interaction Task Force shall ad-
5 vise the Secretary regarding—

6 “(A) the use of available alternative fishing
7 gear or practices to mitigate the interaction;

8 “(B) in the event that no alternative gears are
9 currently available, research into such alternatives;
10 and

11 “(C) other means of mitigating the interaction,
12 including the use of limited intentional lethal
13 takes.”.

14 **SEC. 8. TREATY RIGHTS.**

15 Nothing in this Act is intended to abrogate existing
16 fishing or hunting rights reserved to Indian tribes by trea-
17 ty with the United States.

18 **SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.**

19 The Act is amended—

20 (1) in the table of contents by inserting after
21 the item relating to section 117 the following:

“Sec. 118. General authorization for commercial fisheries.”;

22 (2) in section 101(a)(2) (16 U.S.C. 1371(a)(2))
23 by striking “permits may be issued therefor” and all
24 that follows through “section 103.” and inserting
25 “an authorization may be issued therefor under this

1 section and section 118 subject to regulations pre-
2 scribed by the Secretary.”;

3 (3) in section 102(a) (16 U.S.C. 1372(a)) by
4 striking “and 114” and inserting “114, and 118”;

5 (4) by redesignating the title III of that Act
6 that was added by section 3003 of the Marine Mam-
7 mal Health and Stranding Response Act (106 Stat.
8 5060) as title IV;

9 (5) by redesignating each of the sections of that
10 title in order as sections 401, 402, 403, 404, 405,
11 406, 407, 408, and 409;

12 (6) in section 401(b)(3) as redesignated by this
13 section by striking “304” and inserting in lieu there-
14 of “404”;

15 (7) in section 405(b)(1)(A)(i) as redesignated
16 by this section by striking “304(b)” and inserting in
17 lieu thereof “404(b)”;

18 (8) in section 406(a)(2)(A) as redesignated by
19 this section by striking “304(b)” and inserting in
20 lieu thereof “404(b)”;

21 (9) in section 406(a)(2)(B) as redesignated by
22 this section by striking “304(c)” and inserting in
23 lieu thereof “404(c)”;

24 (10) in section 408(1) as redesignated by this
25 section—

1 (A) by striking “305” and inserting in lieu
2 thereof “405”, and

3 (B) by striking “307” and inserting in lieu
4 thereof “407”;

5 (11) in section 408(2) as redesignated by this
6 section by striking “307” and inserting in lieu there-
7 of “407”;

8 (12) in section 409(1) as redesignated by this
9 section by striking “305(a)” and inserting in lieu
10 thereof “405(a)”;

11 (13) in section 409(5) as redesignated by this
12 section by striking “307(a)” and inserting in lieu
13 thereof “407(a)”;

14 (14) in section 102(a) (16 U.S.C. 1372(a)) by
15 striking “title III” and inserting in lieu thereof
16 “title IV”;

17 (15) in section 109(h)(1) (16 U.S.C.
18 1379(h)(1)) by striking “title III” and inserting in
19 lieu thereof “title IV”;

20 (16) in section 112(c) (16 U.S.C. 1382(c)) by
21 striking “or title III” and inserting in lieu thereof
22 “or title IV”; and

23 (17) by amending the table of contents con-
24 tained in the first section accordingly.

1 **SEC. 10. DEFINITIONS.**

2 Section 3 (16 U.S.C. 1362) is amended—

3 (1) by inserting the following new paragraphs
4 (1) and (2) and renumbering all other paragraphs
5 accordingly:

6 “(1) The term ‘critical stock’ means a marine
7 mammal species or population stock—

8 “(A) which is below its maximum net pro-
9 ductivity level and is not likely to rebuild to
10 that level without significant delay unless action
11 is taken to reduce human-caused mortality or
12 habitat destruction;

13 “(B) which currently is above its maximum
14 net productivity level but is likely to be reduced
15 below that level unless action is taken to reduce
16 human-caused mortality or habitat destruction;
17 or

18 “(C) the status of which is unknown or un-
19 certain, and the level of human-caused mortal-
20 ity is such that, based upon knowledge of com-
21 parable species or stocks, the Secretary has rea-
22 son to believe that it may be causing the species
23 or stock to be reduced or maintained below its
24 maximum net productivity level.

25 “(2) The term ‘current carrying capacity’
26 means the largest average number of animals sup-

1 ported by the habitat within the historic range of a
2 species or population stock prior to human-caused
3 habitat degradation or enhancement, modified to
4 take into account increases and decreases due to
5 natural causes or human-caused effects which for all
6 practical purposes are irreversible.”;

7 (3) by inserting the following new paragraph
8 (10) and renumbering all other paragraphs accord-
9 ingly—

10 “(10) The term ‘maximum net productivity
11 level’ means the population size, age, and gender
12 composition at which the net annual increase in pop-
13 ulation size resulting from additions to the popu-
14 lations due to reproduction, less losses due to natu-
15 ral mortality, is maximized.”;

16 (4) by inserting the following new paragraph
17 (15) and renumbering all other paragraphs accord-
18 ingly:

19 “(15) The term ‘potential biological removal’
20 means the number of animals that may be removed
21 from a marine mammal population stock without
22 causing that stock to be reduced to, or to be main-
23 tained for a significant period of time at, a level
24 below its maximum net productivity level. Potential

1 biological removal levels shall be calculated as fol-
2 lows:

3 “(A) for a species or stock that is below its
4 maximum net productivity level, that part of
5 the net annual increment that can be taken
6 without significantly delaying the time it will
7 take the population to rebuild to its maximum
8 net productivity level; or

9 “(B) for a species or stock whose status is
10 uncertain, the product of the minimum popu-
11 lation estimate times $\frac{1}{2}$ of the best available es-
12 timate of population growth rate at the maxi-
13 mum net productivity level, multiplied by a re-
14 covery factor of—

15 “(i) 0.1 for populations whose mini-
16 mum population estimate is less than
17 10,000; and

18 “(ii) 0.5 for populations whose mini-
19 mum population estimate is greater than
20 10,000.”; and

21 (5) by adding at the end the following:

22 “(18) The term ‘Regional Council’ means a Re-
23 gional Fishery Management Council established
24 under section 302 of the Magnuson Fishery Con-
25 servation and Management Act.”.

1 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS FOR MA-**
2 **RINE MAMMAL COMMISSION.**

3 Title II (16 U.S.C. 1401 et seq.) is amended in sec-
4 tion 207 by—

5 (a) striking all from “\$672,000 for fiscal year
6 1982” through “1992, and”;

7 (b) striking the period at the end; and

8 (c) inserting the following: “\$1,500,000 for fis-
9 cal year 1994, \$1,550,000 for fiscal year 1995,
10 \$1,600,000 for fiscal year 1996, \$1,650,000 for fis-
11 cal year 1997, \$1,700,000 for fiscal year 1998, and
12 \$1,750,000 for fiscal year 1999.”.

13 **SEC. 12. AMENDMENT TO PUBLIC LAW 102-587.**

14 Section 3004 of Public Law 102-587 (106 Stat.
15 5067) is amended—

16 (1) in subsection (b) by striking “3(11) of the
17 Marine Mammal Protection Act of 1972 (16 U.S.C.
18 1362(11))” and inserting in lieu thereof “3(12) of
19 the Marine Mammal Protection Act of 1972 (16
20 U.S.C. 1362(12))”; and

21 (2) in subsection (b)(4) by striking “title III”
22 within the quotation marks and inserting in lieu
23 thereof “title IV”.

○

HR 2760 IH—2

HR 2760 IH—3