

# Marine Mammal Protection Act\*

## 16 U.S.C. §§1361-1383b, 1401-1406, 1411-1421h

### Moratorium

The Act establishes a **moratorium** on the taking and importation of marine mammals and marine mammal products. [MMPA §101(a)]

During the moratorium, no permits may be issued for taking or importing marine mammals. [MMPA §101(a)]

**Exceptions** to the moratorium include permits for scientific research, public display, enhancing the survival or recovery of a species or stock, allowable incidental takings, exemptions for subsistence and traditional activities by Alaskan natives, and hardship exemptions. [MMPA §101]

### Prohibited acts and permits

Except as specifically allowed under the Act or an international agreement to which the United States is a party, it is unlawful for any person to **take, possess, or trade** a marine mammal or marine mammal product, or to use any method of **commercial fishing** in violation of regulations issued under the Act. [MMPA §102(a)]

The Act defines “take” to include harass, hunt, capture, or kill, or to attempt to do any of these things. [MMPA §3(13)]

It is unlawful for any person or vessel to take any species of whale incident to **commercial whaling** in waters subject to the jurisdiction of the United States. [MMPA §102(f)]

The Secretary of the department in which the National Oceanic and Atmospheric Administration is operating or the Secretary of the Interior, depending on their respective functions, shall issue **regulations** concerning the taking and importation of marine mammals that are necessary and appropriate to ensure that such taking will not be to the disadvantage of the species and population stocks of the animals. [MMPA §103]

The Act establishes the procedures by which the Secretary concerned shall issue and administer **permits** for taking and importation, including issuing general permits and charging a reasonable fee. [MMPA §104]

The Act establishes **civil and criminal penalties** for violations, and authorizes **searches, seizures** of unlawfully taken marine mammals and personal property, and **arrests** for purposes of enforcement. [MMPA §§105, 106, 107]

The Secretary concerned shall initiate negotiations for the development of **international agreements** for the protection and conservation of marine mammals. [MMPA §108]

The Secretary concerned shall transfer **manage-**

**ment authority** for a marine mammal species to a **state** if the state has an adequate program for the conservation and management of the species. No state may enforce any state law or regulation related to the taking of a marine mammal unless the Secretary has transferred management authority to the state. [MMPA §109]

### Interim exemption for commercial fisheries

The owner of each vessel holding a temporary exemption from the Act’s limitations on **incidental takings** of marine mammals in the course of commercial fishing shall regularly **report** to the Secretary concerned on the vessel’s incidental takings. [MMPA §114(c)] On the basis of this and other information, the Secretary shall submit to Congress recommendations for a regime to govern incidental takings after April 1, 1994. [MMPA §114(l)(4)]

### Conservation plans

The Secretary concerned shall prepare **conservation plans** for any species or stock of marine mammal that he or she designates as depleted, unless he or she determines that the development of a plan will not promote the conservation of the species or stock. [MMPA §115(b)(1)(C)]

### Marine Mammal Commission

The Act establishes the Marine Mammal Commission to study and report on the condition of marine mammal stocks, methods for their protection and conservation, humane means of taking marine mammals, and all applications for permits for scientific research, public display, or enhancing the survival or recovery of a species or stock. [MMPA §§201, 202]

### Marine Mammal Health and Stranding Response Program

The Act authorizes the Secretary concerned to enter into **stranding response agreements** with any person to take marine mammals in response to a “stranding.” [MMPA §303]

The Secretary concerned shall establish a working group and develop a contingency plan to deal with **marine mammal unusual mortality events**. [MMPA §304]

### Moratorium on certain tuna harvesting practices

The Act makes it unlawful for any person to sell, purchase, or transport in the United States any tuna or tuna product that is not “**dolphin safe**.” [MMPA §307]

The Secretary of State may enter into international agreements to establish a global moratorium to prohibit harvesting tuna with **purse seine nets** deployed in or to

encircle dolphins or other marine mammals. [MMPA §302] The Act authorizes the Secretary of the Treasury to ban the importation of one or more fish or fish prod-

ucts from a country that fails to live up to its obligation under such agreements. [MMPA §305(b)]