

109TH CONGRESS
1ST SESSION

H. R. 2130

To amend the Marine Mammal Protection Act of 1972 to authorize research programs to better understand and protect marine mammals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2005

Mr. GILCHREST introduced the following bill; which was referred to the
Committee on Resources

A BILL

To amend the Marine Mammal Protection Act of 1972 to authorize research programs to better understand and protect marine mammals, 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 2005”.

6 **SEC. 2. AMENDMENT REFERENCES.**

7 Except as otherwise expressly provided, whenever in
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to such
2 section or other provision of the Marine Mammal Protec-
3 tion Act of 1972 (16 U.S.C. 1361 et seq.).

4 **SEC. 3. TECHNICAL CORRECTIONS.**

5 (a) COMMITTEE REFERENCES.—The Marine Mam-
6 mal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is
7 amended by striking “Committee on Merchant Marine and
8 Fisheries” each place it appears and inserting “Committee
9 on Resources”.

10 (b) OBSOLETE REFERENCE TO SECTION.—Section
11 118(c)(3)(A)(i) (16 U.S.C. 1387(c)(3)(A)(i)) is amended
12 by striking “, except that” and all that follows through
13 “is valid”.

14 **SEC. 4. LIMITED AUTHORITY TO EXPORT MARINE MAMMAL**
15 **PRODUCTS.**

16 (a) IN GENERAL.—Section 101(a)(6) (16 U.S.C.
17 1371(a)(6)) is amended by redesignating subparagraph
18 (B) as subparagraph (C), and by inserting after subpara-
19 graph (A) the following:

20 “(B) A marine mammal product may be ex-
21 ported from the United States if the product—

22 “(i) is legally possessed, and exported by,
23 a citizen of the United States for noncommer-
24 cial purposes in conjunction with travel outside
25 the United States and the product is imported

1 into the United States by the same person upon
2 the termination of travel;

3 “(ii) is legally possessed, and exported by,
4 a person that is not a citizen of the United
5 States for noncommercial purposes;

6 “(iii) is legally possessed and exported as
7 part of a cultural exchange, by an Indian,
8 Aleut, or Eskimo residing in Alaska; or

9 “(iv) is owned by a Native inhabitant of
10 Russia, Canada, or Greenland and is exported
11 for noncommercial purposes—

12 “(I) in conjunction with, and upon the
13 completion of, travel within the United
14 States; or

15 “(II) as part of a cultural exchange
16 with an Indian, Aleut, or Eskimo residing
17 in Alaska.”.

18 (b) CONFORMING AMENDMENT.—Section
19 101(a)(6)(A)(i) (16 U.S.C. 1371(a)(6)(A)(i)) is amended
20 by inserting “for noncommercial purposes” after “United
21 States” the first place it appears.

22 **SEC. 5. CAPTIVE RELEASE PROHIBITION.**

23 Section 102(a) (16 U.S.C. 1372(a)) is amended—

24 (1) in paragraph (4) by striking “subsection
25 104(c); and” and inserting “section 104(c);”;

1 (2) in paragraph (5) by striking the period and
2 inserting “; and”; and

3 (3) by adding at the end the following:

4 “(6) for any person that is subject to the juris-
5 diction of the United States to release any captive
6 marine mammal unless specifically authorized to do
7 so under section 104(c)(3)(A), 104(c)(4)(A), or
8 109(h), except that this paragraph shall not apply to
9 the temporary release of any marine mammal that
10 is—

11 “(A) maintained in captivity under section
12 7524 of title 10, United States Code (including
13 any progeny of a marine mammal maintained
14 under that section); or

15 “(B) the progeny of a marine mammal ex-
16 cluded from coverage under this Act by section
17 102(e).”.

18 **SEC. 6. ANNUAL REPORT REQUIREMENT.**

19 Section 103 (16 U.S.C. 1373(f)) is amended—

20 (1) in subsection (f) in the first sentence, by in-
21 serting “and notwithstanding Public Law 104–66,”
22 after “thereafter”; and

23 (2) by adding at the end the following:

24 “(g) The head of each Federal agency that conducts
25 and provides funds for research on marine mammals shall

1 report annually to the Committee on Resources of the
2 House of Representatives and the Committee on Com-
3 merce, Science, and Transportation of the Senate on fund-
4 ing provided and research conducted regarding marine
5 mammals during the preceding year.”.

6 **SEC. 7. PERMIT CLARIFICATIONS.**

7 (a) CLARIFICATIONS.—Section 104 (16 U.S.C. 1374)
8 is amended as follows:

9 (1) Subsection (c)(7) is amended by inserting
10 “notwithstanding any other provision of law” after
11 “requesting the permit”.

12 (2) Subsection (c)(9) is amended to read as fol-
13 lows:

14 “(9)(A) No marine mammal may be exported—

15 “(i) for the purpose of public display,
16 unless the Secretary of Agriculture evalu-
17 ates and verifies, and thereafter notifies
18 the Secretary, that the receiving facility
19 meets standards that are comparable to
20 the requirements that a person must meet
21 to receive a permit under this subsection
22 for that purpose; or

23 “(ii) for the purpose of scientific re-
24 search or enhancing the survival or recov-
25 ery of a species or stock, unless the receiv-

1 ing facility meets standards that are com-
2 parable to the requirements that a person
3 must meet to receive a permit under this
4 subsection for that purpose.

5 “(B) The Secretary may not require or request,
6 through comity or any other means, that any marine
7 mammal or its progeny remain subject to the juris-
8 diction of the United States when located in waters
9 or on lands that are subject to the jurisdiction of an-
10 other country.”.

11 (3) Subsection (c)(10) is amended—

12 (A) in the first sentence by inserting “held
13 within the lands and waters of the United
14 States” after “marine mammals” each place it
15 appears;

16 (B) by inserting after the first sentence
17 the following: “The Secretary shall update the
18 inventory on an annual basis.”; and

19 (C) in subparagraph (D) by inserting
20 “ownership, or other” after “date of”.

21 (b) REVIEW AND REPORT REGARDING INVEN-
22 TORY.—

23 (1) REVIEW.—The Secretaries of Commerce
24 and the Interior shall, by not later than 12 months
25 after date of the enactment of this Act, jointly con-

1 duct a review of the inventory maintained under sec-
2 tion 104(c)(10) of the Marine Mammal Protection
3 Act of 1972 (16 U.S.C. 1374(c)(10)), the use of the
4 information in the inventory, and the costs, benefits,
5 and issues associated with the development of an on-
6 line inventory.

7 (2) CONSULTATION.—In conducting the review,
8 the Secretary shall consult and solicit input from
9 persons who are required to provide information for
10 the inventory.

11 (3) REPORT.—The Secretary shall submit a re-
12 port to Committee on Resources of the House of
13 Representatives and the Committee on Commerce,
14 Science, and Transportation of the Senate on the
15 findings of the review under this subsection. The re-
16 port shall include the following:

17 (A) Recommendations on whether the in-
18 ventory should be maintained by the Secretary
19 or by another person under contract.

20 (B) How the Secretary would oversee
21 maintenance of the inventory carried out under
22 contract.

23 (C) How public access and access by Fed-
24 eral agencies to the inventory can be main-

1 tained if the inventory is maintained under con-
2 tract.

3 (D) How the Secretary can minimize dupli-
4 cation on the information the Secretary receives
5 from public display facilities and reduce the
6 paper work burden on those facilities.

7 (E) An estimate of the cost of maintaining
8 the inventory.

9 (F) A description of how the Secretary will
10 ensure the secure maintenance of the data in
11 the inventory.

12 (G) An analysis of the potential that online
13 availability of the information in the inventory
14 could adversely affect the safety of the animals.

15 (c) LIMITATION ON NOTIFICATION REQUIRE-
16 MENTS.—Section 104(c) (16 U.S.C. 1374(c)) is amended
17 in paragraph (2)(E) in the first sentence, and in para-
18 graph (8)(B)(II), by inserting before the period at the end
19 the following: “, except that if the transport is for pur-
20 poses of public display and the transfer is between facili-
21 ties where the ownership and care of the marine mammal
22 will be under the same license or registration issued under
23 the Animal Welfare Act (7 U.S.C. 2131 et seq.) then only
24 a notice of transport is required”.

1 **SEC. 8. FINES AND PENALTIES.**

2 (a) FINES AND PENALTIES, GENERALLY.—Section
3 105 (16 U.S.C. 1375) is amended—

4 (1) in subsection (a)(1) by striking “\$10,000”
5 and inserting “\$20,000”; and

6 (2) in subsection (b) by striking “\$20,000” and
7 inserting “\$30,000”.

8 (b) VESSEL PENALTY.—Section 106(b) (16 U.S.C.
9 1376(b)) is amended by striking “\$25,000” and inserting
10 “\$35,000”.

11 **SEC. 9. MARINE MAMMAL RESEARCH GRANTS.**

12 Section 110 (16 U.S.C. 1380) is amended—

13 (1) by amending subsection (a) to read as fol-
14 lows:

15 “(a) AUTHORIZATION OF ASSISTANCE; ANNUAL RE-
16 PORT.—

17 “(1) AUTHORIZATION OF ASSISTANCE.—The
18 Secretary may make grants, or provide financial as-
19 sistance in such other form as the Secretary con-
20 siders appropriate, to any Federal or State agency,
21 public or private institution, or other person for the
22 purpose of assisting such agency, institution, or per-
23 son to undertake research in subjects that are rel-
24 evant to the protection and conservation of marine
25 mammals, and the ecosystems upon which they de-
26 pend, including, but not limited to, the Bering/

1 Chukchi Sea ecosystem and the California coastal
2 marine ecosystem.

3 “(2) INCLUSION OF INFORMATION IN RE-
4 PORTS.—The Secretary shall include a description of
5 the annual results of research carried out with as-
6 sistance under this section in the report required
7 under section 103(f).

8 “(3) CONTRIBUTIONS.—For purposes of car-
9 rying out this section, the Secretary may accept, so-
10 licit, receive, hold, administer, and use gifts, devises,
11 and bequests.”; and

12 (2) by striking subsections (c) and (d) and in-
13 serting the following:

14 “(c) AUTHORIZATION OF APPROPRIATIONS.—To
15 carry out this section there is authorized to be appro-
16 priated to the Secretary \$1,500,000 for each of fiscal
17 years 2006 through 2010.”.

18 **SEC. 10. FISHERIES GEAR DEVELOPMENT.**

19 Section 111 (16 U.S.C. 1381) is amended as follows:

20 (1) Subsection (a) is amended to read as fol-
21 lows:

22 “(a) RESEARCH AND DEVELOPMENT PROGRAM.—

23 “(1) IN GENERAL.—The Secretary of Com-
24 merce (in this section referred to as the ‘Secretary’)
25 shall—

1 “(A) carry out a program of research and
2 development for the purpose of devising im-
3 proved fishing methods and gear so as to re-
4 duce to the maximum extent practicable the in-
5 cidental taking of marine mammals in connec-
6 tion with fishing operations; and

7 “(B) make every practicable effort to de-
8 velop, evaluate, and make available to owners
9 and operators of fishing vessels such gear and
10 fishing method improvements as quickly as pos-
11 sible.

12 “(2) COORDINATION WITH OTHER COUN-
13 TRIES.—The Secretary may coordinate with other
14 countries to foster gear technology transfer initia-
15 tives to reduce to the maximum extent practicable
16 the incidental mortality and serious injury of marine
17 mammals throughout the full extent of their range.”.

18 (2) By adding at the end the following:

19 “(e) GEAR RESEARCH MINI-GRANT PROGRAM.—

20 “(1) IN GENERAL.—Subject to the availability
21 of appropriations, the Secretary may establish a
22 grant program to provide financial assistance for de-
23 veloping, manufacturing, testing, or designing new
24 types of fishing gear designed to reduce to the max-
25 imum extent practicable the incidental taking (in-

1 including incidental mortality and serious injury) of
2 marine mammals.

3 “(2) GRANT AMOUNT AND PURPOSES.—The
4 amount of a grant under this subsection may not ex-
5 ceed \$20,000.

6 “(3) GRANT APPLICATIONS.—To receive a
7 grant under this section, an applicant must submit
8 an application in such form and manner as the Sec-
9 retary may prescribe.

10 “(4) CONSULTATION REGARDING CRITERIA.—
11 The Secretary shall consult with the Secretary of the
12 Interior and the Marine Mammal Commission re-
13 garding the development of criteria for the awarding
14 of grants under this subsection.

15 “(5) ADMINISTRATIVE COSTS.—Of amounts
16 available each fiscal year to carry out this sub-
17 section, the Secretary may expend not more than
18 \$40,000 to pay the administrative expenses nec-
19 essary to carry out this subsection.

20 “(6) CONTRIBUTIONS.—For purposes of car-
21 rying out this section, the Secretary may accept, so-
22 licit, receive, hold, administer, and use gifts, devises,
23 and bequests.

24 “(f) AUTHORIZATION OF APPROPRIATIONS.—To
25 carry out this section there is authorized to be appro-

1 priated to the Secretary \$1,500,000 for each of fiscal
2 years 2006 through 2010.”.

3 **SEC. 11. TROPICAL TREATY CONFORMING AMENDMENT.**

4 Subsection (c) of the Dolphin Protection Consumer
5 Information Act (16 U.S.C. 1385) is amended in para-
6 graph (2) by striking “160 degrees west longitude” and
7 inserting “150 degrees west longitude”.

8 **SEC. 12. TAKE REDUCTION PLANS.**

9 (a) IN GENERAL.—Section 118 (16 U.S.C. 1387) is
10 amended as follows:

11 (1) In subsection (a) by striking “commercial”
12 each place it appears in paragraphs (1) and (5).

13 (2) In subsection (c)(1) by striking so much as
14 precedes subparagraph (B) and inserting the fol-
15 lowing:

16 “(c) REGISTRATION AND AUTHORIZATION.—(1) The
17 Secretary shall, within 90 days after the date of enactment
18 of the Marine Mammal Protection Act Amendments of
19 2005—

20 “(A) publish in the Federal Register for public
21 comment, for a period of not less than 90 days, any
22 necessary changes to the Secretary’s list of fisheries
23 published under section 114(b)(1) in the Federal
24 Register on August 24, 1994 (along with an expla-
25 nation of such changes and a statement describing

1 the marine mammal stocks interacting with, and the
2 approximate number of vessels or persons actively
3 involved in, each such fishery), with respect to—

4 “(i) commercial and recreational fisheries
5 that have frequent incidental mortality and seri-
6 ous injury of marine mammals;

7 “(ii) commercial and recreational fisheries
8 that have occasional incidental mortality and
9 serious injury of marine mammals; or

10 “(iii) commercial fisheries that have a re-
11 mote likelihood of or no known incidental mor-
12 tality or serious injury of marine mammals;”.

13 (3) In subsection (c)(1) in subparagraphs (B)
14 and (C) by striking “commercial”.

15 (4) In subsection (c)(2)(A) by striking “com-
16 mercial”.

17 (5) In subsection (c)(3)(A) in the matter pre-
18 ceding clause (i) by striking “a commercial fishery”
19 and inserting “that fishery”.

20 (6) In subsection (c)(3)(E) by inserting “com-
21 mercial” after “any”.

22 (7) In subsection (c)(5)(B) by striking “com-
23 mercial”.

24 (8) In subsection (d)(1) in the matter preceding
25 subparagraph (A) by striking “commercial fishing

1 operations” and inserting “fishing operations in a
2 fishery listed under subsection (c)(1)(A)(i) or (ii)”.

3 (9) In subsection (d)(3) in the matter preceding
4 subparagraph (A) by striking “commercial fisheries”
5 and inserting “fisheries listed under subsection
6 (c)(1)(A)(i) or (ii)”.

7 (10) In subsection (d)(4) as follows:

8 (A) In the matter preceding subparagraph
9 (A) by striking “commercial fisheries” and in-
10 sserting “fisheries listed under subsection
11 (c)(1)(A)(i) or (ii)”.

12 (B) In subparagraph (A) by striking “com-
13 mercial fisheries” and inserting “fisheries listed
14 under subsection (c)(1)(A)(i) or (ii)”.

15 (C) In subparagraph (B) by striking “com-
16 mercial fisheries” and inserting “fisheries listed
17 under subsection (c)(1)(A)(i) or (ii)”.

18 (D) In subparagraph (C) by striking “com-
19 mercial fisheries” and inserting “fisheries listed
20 under subsection (c)(1)(A)(i) or (ii)”.

21 (11) In subsection (d)(5) by striking “commer-
22 cial fishing operations” and inserting “fishing oper-
23 ations in fisheries listed under subsection
24 (c)(1)(A)(i) or (ii)”.

1 (12) In subsection (e) in the matter preceding
2 paragraph (1)—

3 (A) by striking “commercial” each place it
4 appears; and

5 (B) by striking “this Act” and inserting
6 “this section”.

7 (13) In subsection (f) by striking so much as
8 precedes paragraph (2) and inserting the following:

9 “(f) TAKE REDUCTION PLANS.—(1) The Secretary
10 shall develop and implement a take reduction plan de-
11 signed to assist in the recovery or prevent the depletion
12 of each strategic stock which interacts with a fishery listed
13 under subsection (c)(1)(A)(i) or (ii), unless the Secretary
14 determines, after notice and opportunity for public com-
15 ment, that the level of fishery related mortality and seri-
16 ous injury is having a negligible impact on that stock. The
17 Secretary may develop and implement a take reduction
18 plan for any other marine mammal stocks which interact
19 with a fishery listed under subsection (c)(1)(A)(i) which
20 the Secretary determines, after notice and opportunity for
21 public comment, has a high level of mortality and serious
22 injury across a number of such marine mammal stocks.”.

23 (14) In subsection (f)(2)—

24 (A) by striking “6 months” and inserting
25 “9 months”; and

1 (B) by striking “commercial fishing oper-
2 ations” each place it appears and inserting
3 “fishing operations in fisheries listed under sub-
4 section (c)(1)(A)(i) or (ii)”.

5 (15) In subsection (f)(3) by striking “commer-
6 cial”.

7 (16) In subsection (f)(4)(B) by striking “com-
8 mercial fishing operations” and inserting “fishing
9 operations in fisheries listed under subsection
10 (c)(1)(A)(i) or (ii)”.

11 (17) In subsection (f)(5)—

12 (A) in subparagraph (A) by striking “6
13 months” and inserting “9 months”; and

14 (B) in subparagraphs (A) and (B) by
15 striking “commercial” each place it appears.

16 (18) In subsection (f)(6)(A)—

17 (A) by striking “(not later than 30 days)”;
18 and

19 (B) in clause (ii) by striking “commercial
20 fisheries” and inserting “fisheries listed under
21 subsection (c)(1)(A)(i) or (ii)”.

22 (19) In subsection (f)(6)(C) in the second sen-
23 tence, by inserting before “, and others” the fol-
24 lowing: “, where appropriate a representative of the
25 office of General Counsel of the National Oceanic

1 and Atmospheric Administration, a representative of
2 the National Marine Fisheries Service having re-
3 sponsibilities related to fisheries science, a represent-
4 ative of the National Marine Fisheries Service hav-
5 ing responsibilities related to law enforcement, and
6 a representative of the appropriate National Marine
7 Fisheries Service Regional Administrator”.

8 (20) In subsection (f)(7)—

9 (A) in subparagraph (A)(i) by striking “6
10 months” and inserting “9 months”;

11 (B) in subparagraph (B)(i)—

12 (i) by striking “not later than 60
13 days” and inserting “not later than 120
14 days”; and

15 (ii) by adding at the end the fol-
16 lowing: “Before publishing any plan that is
17 different than the draft plan proposed by
18 a take reduction team, the Secretary shall
19 reconvene the team and explain to the
20 team the differences between the published
21 plan and the draft plan proposed by the
22 team.”; and

23 (C) in subparagraph (B)(ii)—

24 (i) by striking “6 months” and insert-
25 ing “9 months”; and

1 (ii) by striking “not later than 8
2 months” and inserting “not later than 11
3 months”.

4 (21) In subsection (f)(7)(C) by striking “Not
5 later than 60 days” and inserting “Not later than
6 90 days”.

7 (22) In subsection (f)(7)(D) by striking “com-
8 mercial”.

9 (23) In subsection (f)(8)—

10 (A) in subparagraph (C) by striking “Not
11 later than 60 days” and inserting “Not later
12 than 180 days”; and

13 (B) by striking “commercial” each place it
14 appears.

15 (24) In subsection (f)(9) as follows:

16 (A) In subparagraph (A) by striking “com-
17 mercial fisheries or restrict commercial fish-
18 eries” and inserting “fisheries listed under sub-
19 section (c)(1)(A)(i) or (ii) or restrict such fish-
20 eries”.

21 (B) In subparagraphs (B) and (C) by
22 striking “commercial” each place it appears.

23 (C) In subparagraph (D) by striking “com-
24 mercial fishing operations” and inserting “par-

1 ticipation in a fishery listed under subsection
2 (c)(1)(A)(i) or (ii)”.

3 (25) In subsection (g)(1) by striking “commer-
4 cial fisheries” and inserting “fisheries listed under
5 subsection (c)(1)(A)(i) or (ii)”.

6 (26) In subsection (g)(3)(B) by striking “com-
7 mercial”.

8 (27) In subsection (g)(4) by striking “commer-
9 cial fishery” and inserting “fishery listed under sub-
10 section (c)(1)(A)(i) or (ii)”.

11 (28) In subsection (j) by inserting “including
12 observer, research, and education and outreach pro-
13 grams,” after “For purposes of carrying out this
14 section,”.

15 (29) By amending subsection (d)(1)(C) to read
16 as follows:

17 “(C) identify current fishery regulations and
18 changes in fishing methods or technology that may
19 increase or decrease incidental mortality and serious
20 injury.”.

21 (30) In subsection (f)(2) in the last sentence by
22 inserting “conservation benefits of” before “State or
23 regional fishery management plans.”.

24 (31) By amending subsection (f)(4)(A) to read
25 as follows:

1 “(A) a review of the information in the final
2 stock assessment published under section 117(b),
3 any substantial new information, a review of the
4 conservation benefits from current State and re-
5 gional fishery management regulations;”.

6 (b) STOCK ASSESSMENTS.—Section 117(a)(4) is
7 amended—

8 (1) by striking “and” at the end of subpara-
9 graph (C);

10 (2) by inserting “and” at the end of subpara-
11 graph (D); and

12 (3) by adding at the end the following:

13 “(E) potential conservation benefits pro-
14 vided by State and regional fishery manage-
15 ment regulations;”.

16 (c) ZERO MORTALITY RATE GOAL AMENDMENTS.—
17 Section 118 (16 U.S.C. 1387) is amended in subsections
18 (a)(1) and (b)(1) by striking “within 7 years after the date
19 of enactment of this section” each place it appears.

20 (d) CONFORMING AMENDMENT.—Section
21 101(a)(5)(E) (16 U.S.C. 1371(a)(5)(E)) is amended by
22 inserting “or recreational” after “commercial” each place
23 it appears.

1 **SEC. 13. PINNIPED RESEARCH.**

2 Section 120 (16 U.S.C. 1389) is amended by adding
3 at the end the following:

4 “(k) RESEARCH ON NONLETHAL REMOVAL AND
5 CONTROL.—(1) The Secretary shall conduct research on
6 the nonlethal removal and control of nuisance pinnipeds.
7 The research shall include a review of measures that have
8 been taken to effect such removal and control, the effec-
9 tiveness of these measures, and the development of new
10 technologies to deter nuisance pinnipeds.

11 “(2) The Secretary shall include, among the individ-
12 uals that develop the research program under this sub-
13 section, representatives of the commercial and recreational
14 fishing industries.

15 “(3) The Secretary is encouraged, where appropriate,
16 to use independent marine mammal research institutions
17 in developing and in conducting the research program.

18 “(4) The Secretary shall, by December 31 of each
19 year, submit an annual report on the results of research
20 under this subsection to the Committee on Resources of
21 the House of Representatives and the Committee on Com-
22 merce, Science, and Transportation of the Senate.

23 “(l) QUALIFIED NONLETHAL CONTROL PROJECTS.—

24 “(1) IN GENERAL.—The Secretary may, to the
25 extent amounts are available to carry out this sub-
26 section, provide a grant to any eligible applicant to

1 carry out a qualified nonlethal control project in ac-
2 cordance with this subsection.

3 “(2) APPLICATIONS.—The Secretary shall—

4 “(A) publish guidelines for and solicit ap-
5 plications for grants under this subsection not
6 later than 6 months after the date of enactment
7 of this subsection; and

8 “(B) receive, review, evaluate, and approve
9 applications for grants under this subsection.

10 “(3) ELIGIBLE APPLICANT.—To be an eligible
11 applicant for purposes of paragraph (1), an appli-
12 cant must—

13 “(A) be a State, local government, or
14 interstate or regional agency; and

15 “(B) have adequate personnel, funding,
16 and authority to carry out and monitor or
17 maintain a nonlethal control of nuisance
18 pinnipeds project.

19 “(4) QUALIFIED CONTROL PROJECT.—To be a
20 qualified control project under this subsection, a
21 project must—

22 “(A) by humane and nonlethal means, re-
23 move, deter, and control nuisance pinnipeds in
24 areas where they are a recurrent and persistent
25 threat to public health and safety; and

1 “(B) encourage public notice, education,
2 and outreach on project activities in the af-
3 fected community.

4 “(5) GRANT DURATION.—Each grant under
5 this subsection shall be to provide funding for the
6 Federal share of the cost of a project carried out
7 with the grant for up to 2 fiscal years.

8 “(6) REPORTING BY GRANTEE.—

9 “(A) IN GENERAL.—A grantee carrying
10 out a control project with a grant under this
11 subsection shall report to the Secretary at the
12 expiration of the grant.

13 “(B) REPORT CONTENTS.—Each report
14 under this subsection shall include specific in-
15 formation on the methods and techniques used
16 to control nuisance pinniped species in the
17 project area, and on the ensuing results.

18 “(7) COST SHARING.—

19 “(A) FEDERAL SHARE.—Except as pro-
20 vided in paragraphs (2) and (3), the Federal
21 share of the cost of a project carried out with
22 a grant under this subsection shall not exceed
23 75 percent of such cost.

24 “(B) APPLICATION OF IN-KIND CONTRIBU-
25 TIONS.—The Secretary may apply to the non-

1 Federal share of costs of a control project car-
2 ried out with a grant under this subsection the
3 fair market value of services or any other form
4 of in-kind contribution to the project made by
5 non-Federal interests that the Secretary deter-
6 mines to be an appropriate contribution equiva-
7 lent to the monetary amount required for the
8 non-Federal share of the activity.

9 “(C) DERIVATION OF NON-FEDERAL
10 SHARE.—The non-Federal share of the cost of
11 a control project carried out with a grant under
12 this subsection may not be derived from a Fed-
13 eral grant program or other Federal funds.

14 “(8) AUTHORIZATION OF APPROPRIATIONS.—
15 There are authorized to be appropriated to the Sec-
16 retary \$1,500,000 for each of fiscal years 2006
17 through 2010.

18 “(9) CLARIFICATION.—Nothing in this sub-
19 section shall be interpreted as suspending or waiving
20 any requirement under any other provision of this
21 Act.”.

22 **SEC. 14. MARINE MAMMAL COMMISSION.**

23 (a) NUMBER OF EMPLOYEES.—Section 206(5) (16
24 U.S.C. 1406(5)) is amended by striking “; except that no

1 fewer than 11 employees must be employed under para-
 2 graph (1) at any time”.

3 (b) ADMINISTRATION.—Section 206 (16 U.S.C.
 4 1406) is amended—

5 (1) in paragraph (4) by striking “(but at rates
 6 for individuals not to exceed \$100 per diem)”; and

7 (2) in paragraph (5) by striking “Financial”
 8 and all that follows through the end of that sen-
 9 tence.

10 **SEC. 15. STRANDING AND ENTANGLEMENT RESPONSE.**

11 (a) COLLECTION AND UPDATING OF INFORMA-
 12 TION.—Section 402(b)(1)(A) (16 U.S.C. 1421a(b)(1)(A))
 13 is amended by inserting “or entangled” after “stranded”.

14 (b) ENTANGLEMENT RESPONSE AGREEMENTS.—

15 (1) IN GENERAL.—Section 403 (16 U.S.C.
 16 1421b) is amended—

17 (A) by amending the section heading to
 18 read as follows:

19 **“SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE**
 20 **AGREEMENTS.”;**

21 and

22 (B) in subsection (a) by inserting “or en-
 23 tanglement” before the period.

24 (2) CLERICAL AMENDMENT.—The table of con-
 25 tents at the end of the first section is amended by

1 striking the item relating to section 403 and insert-
2 ing the following:

“403. Stranding or entanglement response agreements.”.

3 (c) LIABILITY.—Section 406(a) (16 U.S.C. 1421e(a))
4 is amended by inserting “or entanglement” after “strand-
5 ing”.

6 (d) ENTANGLEMENT DEFINED.—

7 (1) IN GENERAL.—Section 410 (16 U.S.C.
8 1421h) is amended—

9 (A) by redesignating paragraphs (1)
10 through (6) in order as paragraphs (2) through
11 (7); and

12 (B) by inserting before paragraph (2) (as
13 so redesignated) the following:

14 “(1) The term ‘entanglement’ means an event
15 in the wild in which a living or dead marine mammal
16 has gear, rope, line, net, or other material wrapped
17 around or attached to it and is—

18 “(A) on a beach or shore of the United
19 States; or

20 “(B) in waters under the jurisdiction of
21 the United States.”.

22 (2) CONFORMING AMENDMENT.—Section
23 408(a)(2)(B)(i) (16 U.S.C. 1421f–1(a)(2)(B)(i)) is
24 amended by striking “section 410(6)” and inserting
25 “section 410(7)”.

1 (e) JOHN H. PRESCOTT MARINE MAMMAL RESCUE
2 ASSISTANCE GRANT PROGRAM.—

3 (1) AUTHORIZATION OF APPROPRIATIONS FOR
4 GRANT PROGRAM.—Section 408(h) (16 U.S.C.
5 1421f–1(h)) is amended—

6 (A) by striking “\$5,000,000 for each of
7 fiscal years 2001 through 2003” and inserting
8 “\$7,000,000 for each of fiscal years 2006
9 through 2010”; and

10 (B) in paragraph (1) by striking
11 “\$4,000,000” and inserting “\$6,000,000” .

12 (2) ADMINISTRATIVE COSTS AND EXPENSES.—
13 Section 408 (16 U.S.C. 1421f–1) is amended—

14 (A) by adding at the end of subsection
15 (a)(1) the following: “All funds available to im-
16 plement this section shall be distributed to eligi-
17 ble stranding network participants for the pur-
18 poses set forth in this paragraph and paragraph
19 (2), except as provided in subsection (f).”; and

20 (B) by amending subsection (f) to read as
21 follows:

22 “(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of
23 the amounts available each fiscal year to carry out this
24 section, the Secretary may expend not more than 5 per-
25 cent or \$80,000, whichever is greater, to pay the adminis-

1 trative costs and administrative expenses to implement the
2 grant program under subsection (a). Any such funds re-
3 tained by the Secretary for a fiscal year for such costs
4 and expenses that are not used for such costs and ex-
5 penses before the end of the fiscal year shall be provided
6 as grants under subsection (a).”.

7 (3) EMERGENCY ASSISTANCE.—Section 408 (16
8 U.S.C. 1421f–1) is amended—

9 (A) in subsection (a) by redesignating
10 paragraphs (2) and (3) as paragraph (3) and
11 (4), respectively, and by inserting after para-
12 graph (1) the following:

13 “(2) Subject to the availability of appropriations, the
14 Secretary may also enter into cooperative agreements, con-
15 tracts, or such other agreements or arrangements as the
16 Secretary considers appropriate to address stranding
17 events requiring emergency assistance.”;

18 (B) in subsection (d) by inserting “(1)”
19 before the first sentence, and by adding at the
20 end the following:

21 “(2) Funding for emergency stranding projects shall
22 not be subject to the funding limit established in para-
23 graph (1).”;

24 (C) in subsection (e)—

1 (i) in paragraph (1) by striking “The
2 non-Federal” and inserting “Except as
3 provided in paragraph (2), the non-Fed-
4 eral”;

5 (ii) by redesignating paragraph (2) as
6 paragraph (3); and

7 (iii) by inserting after paragraph (1)
8 the following:

9 “(2) EMERGENCY ASSISTANCE.—No non-Fed-
10 eral contribution shall be required for funding for a
11 response to an emergency stranding event.”; and

12 (D) in subsection (g) by redesignating
13 paragraph (2) as paragraph (3) and inserting
14 after paragraph (1) the following:

15 “(2) EMERGENCY ASSISTANCE.—The term
16 ‘emergency assistance’ means assistance provided for
17 a stranding event that—

18 “(A) is not an unusual mortality event as
19 defined in section 409(6);

20 “(B) leads to an immediate increase in re-
21 quired costs for stranding response, recovery, or
22 rehabilitation in excess of regularly scheduled
23 costs;

24 “(C) may be cyclical or endemic; and

25 “(D) may involve out-of-habitat animals.”.

1 (4) CONTRIBUTIONS.—Section 408 (16 U.S.C.
2 1421f-1) is amended by adding at the end the fol-
3 lowing:

4 “(i) CONTRIBUTIONS.—For purposes of carrying out
5 this section, the Secretary may solicit, accept, receive,
6 hold, administer, and use gifts, devises, and bequests.”.

7 (f) AUTHORIZATION OF APPROPRIATIONS FOR MA-
8 RINE MAMMAL UNUSUAL MORTALITY EVENT FUND.—
9 Section 409(3) (16 U.S.C. 1421g(3)) is amended by strik-
10 ing “\$500,000 for fiscal year 1993” and inserting
11 “\$125,000 for each of fiscal years 2006 through 2010”.

12 **SEC. 16. SCRIMSHAW EXEMPTION.**

13 Any valid certificate of exemption referred to in sec-
14 tion 18 of Public Law 103-238 (16 U.S.C. 1539 note)
15 that was valid under that section on April 29, 1999, shall
16 be valid during the 11-year period beginning October 31,
17 1999.

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