

**Calendar No. 212**

117TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
117-77 }

MARINE MAMMAL RESEARCH AND  
RESPONSE ACT OF 2021

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 1289



FEBRUARY 15, 2022.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

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### MARINE MAMMAL RESEARCH AND RESPONSE ACT OF 2021

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Ms. CANTWELL, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### R E P O R T

[To accompany S. 1289]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1289) to amend the Marine Mammal Protection Act of 1972 to reauthorize and modify the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of S. 1289, the Marine Mammal Research and Response Act of 2021, is to reauthorize and amend the John H. Prescott Marine Mammal Rescue Assistance Grant Program.

#### BACKGROUND AND NEEDS

The Marine Mammal Protection Act (MMPA) was enacted in 1972 in large part due to the overwhelming public outcry regarding the high levels of dolphin mortalities in the Pacific tuna fishery, which were estimated at more than 400,000 mortalities per year.<sup>1</sup> Authorization of appropriations expired at the end of fiscal year 1999 after the last reauthorization of the MMPA in 1994.

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<sup>1</sup>Eugene H. Buck, *The Marine Mammal Protection Act: Reauthorization Issues*, CRS Report RL30120, June 18, 2004 ([https://digital.library.unt.edu/ark:/67531/metacrs10041/m1/1/high\\_res\\_d/RL30120\\_2004Jun18.pdf](https://digital.library.unt.edu/ark:/67531/metacrs10041/m1/1/high_res_d/RL30120_2004Jun18.pdf)).

In 2000, the MMPA was amended by the Marine Mammal Rescue Assistance Act of 2000,<sup>2</sup> establishing the John H. Prescott Marine Mammal Rescue Assistance Grant Program (Prescott Grant Program). The Prescott Grant Program is currently administered through the Marine Mammal Health and Stranding Response Program (MMHSR Program) of the National Marine Fisheries Service (NMFS), also known as NOAA Fisheries. The MMHSR Program works with volunteer stranding and entanglement networks and local, Tribal, State, and Federal government agencies to coordinate emergency responses to sick, injured, distressed, or dead marine mammals.<sup>3</sup> In one instance, the MMHSR Program successfully rescued, rehabilitated, and released Springer, a Northern resident orca who was separated from her pod and was spotted in Puget Sound—an area beyond the pod’s regular geographic range.<sup>4</sup> After Springer was released, she rejoined her pod and has had two calves of her own.

Funding levels for the Prescott Grant Program have varied since its inception in 2001, with a high of \$5.5 million in the first year grants were awarded. From 2001 to 2020, the Prescott Grant Program awarded over \$63.9 million through 739 grants to members of the stranding network.<sup>5</sup> In 2020, \$3.7 million was awarded in a total of 43 grants to recipients from 19 States and one Indian Tribe.<sup>6</sup> In addition to the grants, funds have been used for emergency assistance during catastrophic stranding events, which have varied from \$0 to \$4 million depending on the number and nature of mass strandings in a particular year.<sup>7</sup>

#### MARINE MAMMAL STRANDINGS

Marine mammal strandings occur for a variety of reasons and can be small-scale involving a single animal, or larger scale events involving dozens of animals.<sup>8</sup> In some cases, the cause of the stranding is unknown, but some identified causes include entanglement, ship strikes, illness or disease, injuries caused by natural predators, or unusual weather or oceanographic events.<sup>9</sup> Stranding events provide a substantial amount of information to researchers and natural resource managers.<sup>10</sup> The information collected can provide insights on the biology and ecology of marine mammal species, such as the type of prey it consumes, stock health, and the geographic range of the stock. Animals that are rescued by the stranding network are often rehabilitated, with the ultimate goal of being released back into the wild. Stranded animals may be

<sup>2</sup> 16 U.S.C. 1421f-1.

<sup>3</sup> NOAA Fisheries, “Marine Mammal Health and Stranding Response Program,” updated September 15, 2021 (<https://www.fisheries.noaa.gov/national/marine-life-distress/marine-mammal-health-and-stranding-response-program>).

<sup>4</sup> NOAA Fisheries, “Orphan Killer Whale A73 (Springer),” updated September 1, 2021 (<https://www.fisheries.noaa.gov/west-coast/endangered-species-conservation/orphan-killer-whale-a73-springer>).

<sup>5</sup> NOAA Fisheries, “Marine Mammal Health and Stranding Response Program,” updated September 15, 2021 (<https://www.fisheries.noaa.gov/national/marine-life-distress/marine-mammal-health-and-stranding-response-program>).

<sup>6</sup> NOAA Fisheries, “2020 Prescott Grant Proposals Funded,” updated May 19, 2021 (<https://www.fisheries.noaa.gov/national/marine-life-distress/2020-prescott-grant-proposals-funded>).

<sup>7</sup> *Ibid.*

<sup>8</sup> NOAA Fisheries, “Marine Mammal Health and Stranding Response Program,” updated September 15, 2021 (<https://www.fisheries.noaa.gov/national/marine-life-distress/marine-mammal-health-and-stranding-response-program>).

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

studied by scientists possessing a specific NMFS permit to improve understanding of marine mammal populations.<sup>11</sup>

Analysis of dead marine mammals can also provide valuable information about outbreaks of disease in marine mammals, such as the 2013–2015 outbreak of cetacean morbillivirus on the Atlantic coast<sup>12</sup> and the 2018–2019 Phocine distemper outbreak in the Northeast among harbor seals.<sup>13</sup> Data collected from live-stranded animals has revealed important information about physiology, reproduction, feeding ecology, and other information relevant to conservation and understanding of marine mammal species. For example, research on a stranded gray whale calf named J.J. yielded some of the only detailed information on large baleen whales.<sup>14</sup> J.J. was successfully rehabilitated and returned to the wild.<sup>15</sup> It is the sense of the Committee that the National Oceanic and Atmospheric Administration (NOAA) and the stranding network should make additional efforts to facilitate the collection of data from live-stranded animals using non-invasive and humane methods where possible, particularly for species where data availability is poor.

#### ENTANGLEMENTS

Marine mammal entanglements pose dangerous and often deadly risks to numerous marine species and result in the deaths of hundreds of thousands of animals annually worldwide.<sup>16</sup> Entanglements of marine mammals occur from a wide variety of sources but can involve commercial and recreational fishing gear that is actively in use, marine debris such as lost or abandoned gear from fishing or other activities, plastic waste, and other forms of man-made refuse.<sup>17</sup> Causes of death for animals that become entangled often include drowning, starvation, physical trauma, exhaustion, illness, and infection from entanglement-caused wounds. Restriction of movement caused by entanglement can also lead to vessel

<sup>11</sup> NOAA Fisheries, “Scientific Research and Enhancement Permits for Marine Mammals,” updated February 24, 2020 (<https://www.fisheries.noaa.gov/permit/scientific-research-and-enhancement-permits-marine-mammals>).

<sup>12</sup> NOAA Fisheries, “2013–2015 Bottlenose Dolphin Unusual Mortality Event in the Mid-Atlantic (Closed),” updated December 30, 2019 (<https://www.fisheries.noaa.gov/national/marine-life-distress/2013-2015-bottlenose-dolphin-unusual-mortality-event-mid-atlantic>).

<sup>13</sup> NOAA Fisheries, “2018–2019 Pinniped Unusual Mortality Event Along the Northeast Coast,” updated April 30, 2021 (<https://www.fisheries.noaa.gov/new-england-mid-atlantic/marine-life-distress/2018-2019-pinniped-unusual-mortality-event-along>).

<sup>14</sup> Oleg I. Lyamin et al., “Resting Behavior in a Rehabilitating Gray Whale Calf,” *Aquatic Mammals* 27.3 (January 2001): 256–266 ([https://www.researchgate.net/publication/267704235\\_Resting\\_behavior\\_in\\_a\\_rehabilitating\\_gray\\_whale\\_calf](https://www.researchgate.net/publication/267704235_Resting_behavior_in_a_rehabilitating_gray_whale_calf)); Paul J. Ponganis and Gerald L. Kooyman, “Heart Rate and Electrocardiogram Characteristics of a Young California Gray Whale (*Eschrichtius robustus*),” *Marine Mammal Science* 15.4 (August 2006): 1198–1207 ([https://www.researchgate.net/publication/229729694\\_Heart\\_rate\\_and\\_electrocardiogram\\_characteristics\\_of\\_a\\_young\\_California\\_gray\\_whale\\_Eschrichtius\\_robustus](https://www.researchgate.net/publication/229729694_Heart_rate_and_electrocardiogram_characteristics_of_a_young_California_gray_whale_Eschrichtius_robustus)).

<sup>15</sup> Brad Andrews, W. Davis, and D. Parham, “Corporate Response and Facilitation of the Rehabilitation of a California Gray Whale Calf,” *Aquatic Mammals* 27.3 (2001): 209–211 ([https://aquaticmammalsjournal.org/share/AquaticMammalsIssueArchives/2001/AquaticMammals\\_27-03/27-03\\_Andrews.pdf](https://aquaticmammalsjournal.org/share/AquaticMammalsIssueArchives/2001/AquaticMammals_27-03/27-03_Andrews.pdf)).

<sup>16</sup> NOAA Fisheries, “Marine Mammal Entanglement and Marine Debris in Alaska,” updated July 14, 2021 (<https://www.fisheries.noaa.gov/alaska/marine-life-distress/marine-mammal-entanglement-and-marine-debris-alaska#entanglement-and-marine-debris>); International Whaling Commission, “Whale Entanglement—Building a Global Response” (<https://iwc.int/entanglement>).

<sup>17</sup> NOAA Fisheries, “Entanglement of Marine Life: Risks and Response” (<https://www.fisheries.noaa.gov/insight/entanglement-marine-life-risks-and-response>); Eva Lipiec, Congressional Research Services, *Marine Debris: NOAA’s Role*, updated April 23, 2020 (<https://www.crs.gov/Reports/IF10967?source=search&guid=1074c033ad014d48a927adb78424a009&index=0>); NOAA Fisheries, “Pinniped Entanglement in Marine Debris,” updated July 14, 2021 (<https://www.fisheries.noaa.gov/alaska/marine-life-distress/pinniped-entanglement-marine-debris>).

strikes that could otherwise be avoided.<sup>18</sup> Entanglements threaten endangered species, such as the North Atlantic right whale. The current population of right whales is fewer than 300 individuals, and NOAA research estimates that more than 85 percent have been entangled at least once.<sup>19</sup>

NOAA Fisheries works to reduce marine mammal mortality due to entanglement in fishing gear through the Bycatch Reduction Engineering Program.<sup>20</sup> Over the last 4 years (2016–2019), NOAA Fisheries has awarded \$9.4 million in Bycatch Reduction Engineering Program awards. Approximately 40 percent of these funds has gone to reducing protected species bycatch, including marine mammals.<sup>21</sup>

In addition, NOAA Fisheries was also mandated<sup>22</sup> to develop and implement take reduction plans to reduce incidental mortality or serious injury due to commercial fishing. The plan outlines strategies to approach zero mortality and serious injury rate within 5 years of the plan implementation. Currently, there are seven take reduction teams.<sup>23</sup> Each team targets the interaction between specific fisheries and marine mammal species. For example, the Atlantic Right Whale Take Reduction Plan focuses on reducing injury and mortality of North Atlantic right, humpback, and fin whales due to entanglement with commercial gillnets, traps, and pots.

#### UNUSUAL MORTALITY EVENTS

As defined under title IV of the MMPA, an unusual mortality event (UME) is “a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response.”<sup>24</sup> NOAA’s National Working Group on Marine Mammal UMEs determines that a UME has occurred when it meets any one of seven criteria.<sup>25</sup> Since the establishment of the UME designation in 1991, there have been 70 cases declared to meet the criteria. Some causes of UMEs include illness, infection, oil spills, pollution, biotoxins from harmful algal blooms (HABs) and other natural sources, marine heatwaves, food scarcity, vessel

<sup>18</sup> Ibid (<https://www.fisheries.noaa.gov/insight/entanglement-marine-life-risks-and-response>).

<sup>19</sup> NOAA Fisheries, “Faces of North Atlantic Right Whale Conservation: Mike Asaro, Entanglement Prevention Policy Expert,” updated August 30, 2021 (<https://www.fisheries.noaa.gov/feature-story/faces-north-atlantic-right-whale-conservation-mike-asaro-entanglement-prevention>).

<sup>20</sup> NOAA Fisheries, “Bycatch Reduction Engineering Program,” updated September 9, 2021 (<https://www.fisheries.noaa.gov/national/bycatch/bycatch-reduction-engineering-program>).

<sup>21</sup> Ibid.

<sup>22</sup> 16 U.S.C. 1387.

<sup>23</sup> NOAA Fisheries, “Marine Mammal Take Reduction Plans and Teams” (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams>).

<sup>24</sup> Marine Mammal Commission, “Marine Mammal Health and Strandings” (<https://www.mmc.gov/priority-topics/marine-mammal-health-and-strandings/>).

<sup>25</sup> NOAA, “Marine Mammals: A Notice by the National Oceanic and Atmospheric Administration on 12/14/2006,” *Federal Register* 71, no. 240 (December 14, 2006): 75234 (<https://www.federalregister.gov/documents/2006/12/14/E6-21300/marine-mammals>).

strikes, and other human interactions.<sup>26</sup> UME investigations can also provide valuable data on large scale environmental events.<sup>27</sup>

#### OCEAN WARMING

In 2020, a report found that shifting climate conditions are contributing to the occurrence of marine heatwaves, which have doubled in frequency, increased in duration, and are becoming more intense.<sup>28</sup> Warming ocean conditions can affect marine mammals in different ways, such as: (1) modifying the geographic range of the species; (2) modifying changes in the prey life cycle causing a mismatch between the timing for prey abundance and marine mammal migration; and (3) increasing stress and marine mammal susceptibility to pathogens.<sup>29</sup>

#### HARMFUL ALGAL BLOOMS

HABs are the rapid expansion of algae colonies that produce toxins that can be harmful to other organisms. These blooms can occur in bodies of fresh, marine, or brackish water and are caused by various microorganisms.<sup>30</sup> Human activities have caused increased ocean temperatures, ocean acidification, and nutrient pollution, which contribute to the increased occurrence of HABs in coastal areas.<sup>31</sup> Marine mammal strandings and UMEs have been attributed to biotoxins produced by HABs.<sup>32</sup>

#### SUMMARY OF PROVISIONS

If enacted, S. 1289 would do the following:

- Reauthorize the Prescott Grant Program at \$7 million (\$6 million for the Department of Commerce and \$1 million for the Department of the Interior) for each of fiscal years 2021 through 2026;
- Rename the John H. Prescott Marine Mammal Rescue and Rapid Response Fund as the Joseph R. Geraci Marine Mammal Rescue and Rapid Response Fund. Authorize the Joseph R.

<sup>26</sup> NOAA Fisheries, “Active and Closed Unusual Mortality Events” (<https://www.fisheries.noaa.gov/national/marine-life-distress/active-and-closed-unusual-mortality-events>); NOAA Fisheries, “Investigation Results for the Cetacean Unusual Mortality Event in Northern Gulf of Mexico,” updated August 30, 2021 (<https://www.fisheries.noaa.gov/national/marine-life-distress/investigation-results-cetacean-unusual-mortality-event-northern-gulf>); NOAA Fisheries, “Marine Mammal Health and Stranding Response Program,” updated September 15, 2021 (<https://www.fisheries.noaa.gov/national/marine-life-distress/marine-mammal-health-and-stranding-response-program>).

<sup>27</sup> NOAA Fisheries, “Marine Mammal Unusual Mortality Events,” updated August 16, 2021 (<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-unusual-mortality-events>).

<sup>28</sup> Intergovernmental Panel on Climate Change, *Special Report on the Ocean and Cryosphere in a Changing Climate: Summary for Policymakers*, 2019 (<https://www.ipcc.ch/srocc/chapter/summary-for-policymakers/>).

<sup>29</sup> Camille Albouy et al., “Global Vulnerability of Marine Mammals to Global Warming,” January 17, 2020, *Scientific Reports* 10(548) (<https://www.nature.com/articles/s41598-019-57280-3>).

<sup>30</sup> NOAA, “Harmful Algal Blooms: Tiny Organisms with a Toxic Punch” (<https://oceanservice.noaa.gov/hazards/hab/>).

<sup>31</sup> Intergovernmental Panel on Climate Change, *Special Report on the Ocean and Cryosphere in a Changing Climate*, February 4, 2020 (<https://www.ipcc.ch/srocc/>); Environmental Protection Agency, “Harmful Algal Blooms” (<https://www.epa.gov/nutrientpollution/harmful-algal-blooms#cause>).

<sup>32</sup> NOAA Fisheries, “Active and Closed Unusual Mortality Events” (<https://www.fisheries.noaa.gov/national/marine-life-distress/active-and-closed-unusual-mortality-events>); NOAA, National Centers for Coastal Ocean Science, “National Analytical Response to Harmful Algal Bloom-Related Marine Animal Mortality Events” (<https://coastalscience.noaa.gov/project/national-response-harmful-algal-bloom-mortality-events/>).

- Geraci Marine Mammal Rescue and Rapid Response Fund at \$500,000 for each of fiscal years 2021 through 2026;
- Establish the Marine Mammal Health Monitoring and Analysis Platform (Health MAP), which would be incorporated into the National Integrated Coastal and Ocean Observation System; and
  - Require reporting to Congress on data collection and gaps.

#### LEGISLATIVE HISTORY

S. 1289, the Marine Mammal Research and Response Act of 2021, was introduced on April 21, 2021, by Senator Cantwell and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Murkowski and Sullivan were later added as cosponsors. On May 12, 2021, the Committee met in open Executive Session and, by voice vote, ordered S. 1289 reported favorably without amendment.

#### 116TH CONGRESS

S. 2802, a similar bill to S. 1289, was introduced on November 6, 2019, by Senator Cantwell and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Sullivan, Murkowski, and Schatz were later added as cosponsors. On December 11, 2019, the Committee met in open Executive Session and, by voice vote, ordered S. 2802 reported favorably with an amendment (in the nature of a substitute).

S. 2453, a bill to aid in the conservation of North Atlantic right whales, was introduced on September 10, 2019, by Senator Booker (for himself and Senators Isakson and Carper) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Roberts, Blumenthal, and Markey were later added as cosponsors. On November 13, 2019, the Committee met in open Executive Session and, by voice vote, ordered S. 2453 reported favorably with an amendment (in the nature of a substitute).

#### 114TH CONGRESS

S. 3059, a similar bill to S. 2802, was introduced on June 15, 2016, by Senator Cantwell (for herself and Senator Sullivan) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Murkowski and Schatz were later added as cosponsors. On November 28, 2016, S. 3059 was reported favorably with an amendment (in the nature of a substitute).

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, October 15, 2021.

Hon. MARIA CANTWELL,  
Chair, Committee on Commerce, Science, and Transportation,  
U.S. Senate, Washington, DC.

DEAR MADAM CHAIR: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1289, the Mammal Research and Response Act of 2021.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Madeleine Fox.

Sincerely,

PHILLIP L. SWAGEL,  
Director.

Enclosure.

<b>S. 1289, Marine Mammal Research and Response Act of 2021</b>			
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on May 12, 2021			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	6	46	not estimated
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 1289 would reauthorize and amend the Marine Mammal Protection Act of 1972 (MMPA) and would authorize the appropriation of specific amounts through the 2026 period for the National Oceanic and Atmospheric Administration (NOAA) and the Department of the Interior (DOI) to conduct specific activities. The bill would authorize the appropriation of the following amounts over the 2022–2026 period to carry out several provisions of the MMPA:

- \$30 million for NOAA to conduct its portion of the John H. Prescott Marine Mammal Rescue and Response Program,
- \$5 million for DOI to conduct its portion of the same program,
- \$2.5 million for a new rapid response fund to provide emergency assistance for marine mammal rescue and response,
- \$2.5 million for the Marine Mammal Unusual Mortality Event Fund to compensate emergency responders in the event of large, unexpected die-offs of marine mammals,
- \$1.25 million for the operations of the National Marine Mammal Tissue Bank, and
- \$1.25 million for NOAA to create and maintain a publicly accessible national database to monitor marine mammal health

and to comply with other existing and new administrative requirements of the MMPA.

The costs of the legislation, detailed in Table 1, fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1289

	By fiscal year, millions of dollars—					
	2022	2023	2024	2025	2026	2022–2026
Specified Programs:						
Authorization .....	9	9	9	9	9	43
Estimated Outlays .....	5	7	8	9	9	37
Other Requirements:						
Estimated Authorization .....	2	2	2	2	2	10
Estimated Outlays .....	1	2	2	2	2	9
Total Changes:						
Estimated Authorization .....	11	11	11	11	11	53
Estimated Outlays .....	6	9	10	11	11	46

Components may not sum to totals because of rounding.

CBO assumes that the bill will be enacted by the end of calendar year 2021. Estimated outlays are based on historical spending patterns for existing and similar programs. CBO estimates implementing S. 1289 would cost \$46 million over the 2022–2026 period, assuming appropriation of authorized and estimated amounts.

As mentioned above, S. 1289 would authorize the appropriation of \$1.25 million over the 2022–2026 period for existing and new administrative requirements of the MMPA. The bill would add requirements for NOAA to develop a database and complete additional reports, including a report on how different factors affect the mortality of marine mammals. Using information from NOAA, CBO estimates that the agency would need an additional \$2 million annually to meet the new administrative requirements at a cost of \$9 million over the 2022–2026 period.

S. 1289 would allow NOAA to accept and spend, without further appropriation, monetary gifts to the Prescott grant program. Those gifts would be recorded as offsetting receipts, which are treated as reductions in direct spending. CBO estimates that the net change in direct spending would be negligible because any gifts would be spent soon after they are received.

The bill also would allow NOAA to deposit into the Marine Mammal Unusual Mortality Event Fund amounts collected as fines for violating the MMPA. Under current law, those fines can be spent without further appropriation to protect certain marine mammals. CBO estimates that enacting that provision would increase direct spending by expanding the purposes for which those fines could be spent but that the increase would not be significant in any year or over the 2022–2031 period.

The CBO staff contact for this estimate is Madeleine Fox. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

#### REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

## NUMBER OF PERSONS COVERED

S. 1289 would not create any new programs or impose any new regulatory requirements, and therefore will not subject any individuals or businesses to new regulations.

## ECONOMIC IMPACT

S. 1289 is not expected to have a negative impact on the Nation's economy.

## PRIVACY

S. 1289 would not affect the personal privacy of individuals.

## PAPERWORK

S. 1289 would require additional data on marine mammal strandings from stranding network participants. The additional paperwork burden on these groups would be offset by the benefit to the Nation of timely and accurate data on marine mammal strandings.

## CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title.*

This section would provide that the bill may be cited as the "Marine Mammal Research and Response Act of 2021".

*Section 2. Data collection and dissemination.*

This section would add a requirement for the Secretary of Commerce to collect information on entangled marine mammals to an existing requirement to collect data on strandings. It would specify data reporting requirements, establish a timeline for when data must be submitted to the Secretary, and require that the Secretary establish a program to make data on marine mammal strandings available to researchers, stranding network participants, and the public. It would clarify data access for stakeholder groups and establish exceptions providing for the early public release of data under certain circumstances, as well as withholding, for longer periods, data that is related to a law enforcement investigation. It would require the Secretary to collaborate with the marine mammal research and stranding community to develop and periodically update guidance on standards for data collection, as well as a data management and public outreach collaboration policy for stranding or entanglement events.

*Section 3. Stranding or entanglement response agreements.*

This section would allow the Secretary to enter into an agreement with persons to respond to, or take, marine mammals that are entangled. The current statute allows takings in response to a stranding. It would require marine mammal stranding agreements

to include a copy of the data management and public outreach policy described in section 2.

*Section 4. Unusual mortality event activity funding.*

This section would limit the uses of the unusual mortality event fund to include payments for costs incurred while responding to a marine mammal mortality event, to reimburse stranding networks for tissue sample collection and analysis, and for the care of animals that are being rehabilitated. It would allow sums collected by NOAA for violations of the MMPA and sums received from emergency declaration grants for marine mammal conservation to be used to respond to unusual mortality events. It would also prohibit use of more than \$250,000 per fiscal year from each of the amounts appropriated for carrying out this Act.

*Section 5. Liability.*

This section would add a limitation on liability for persons responding to the entanglement of a marine mammal to the current limitations for persons responding to a stranding event.

*Section 6. National Marine Mammal Tissue Bank and tissue analysis.*

This section would add a requirement that the marine mammal tissue bank database include information on marine mammal mortality.

*Section 7. Marine Mammal Rescue and Response Grant Program and Rapid Response Fund.*

This section would make minor changes to the Prescott Grant Program. It would direct the Secretary to assess the capacity of eligible stranding network participants or collaborators. It would allow the Secretary to consider the equitable distribution of funds among the stranding regions, including the Gulf of Mexico, episodic entanglement events, the importance of marine mammal populations to indigenous communities, and the conservation of marine mammal species. It would specify that priority be given to grant applications for marine mammal strandings. It would limit the amount of a single Prescott Grant award to not exceed \$150,000 for any 12-month period. It would allow unexpended funds to remain available until expended and would limit the administrative costs of the program. This section would also rename the John H. Prescott Marine Mammal Rescue and Rapid Response Fund to the Joseph R. Geraci Marine Mammal Rescue and Rapid Response Fund. The Rapid Response Fund will be used by the Secretary for emergency assistance. This section would authorize appropriations of \$7 million for the Prescott Grant Program and \$500,000 for the Rapid Response Fund for each year from 2021 through 2026. This section would also allow the Rapid Response Fund to accept donations.

*Section 8. Health MAP.*

This section would require the Secretary to consult with the Secretary of the Interior and the Marine Mammal Commission to establish a national marine mammal health monitoring and analysis platform (referred to as the Health MAP). This Health MAP would be incorporated into the NOAA Integrated Ocean Observation Sys-

tem (IOOS) and be made publicly accessible. The Health MAP would be required to integrate marine mammal health, stranding, and mortality data collected by Federal, State, and Tribal governments, private partners, and academia and would be designed to enhance data and information availability and access. The Secretary would be required to establish standard procedures and guidelines for reporting, transmitting, maintaining, and making data publicly accessible for the Health MAP. This section would allow the Secretary to receive and administer gifts, devises, or bequests for the purposes of carrying out the activities described in this section.

*Section 9. Reports to Congress.*

This section would require the NOAA Administrator to submit a report to Congress on the status of the Health MAP within 2 years. It would require the NOAA Administrator to make a report publicly available and provide a briefing to Congress on a data gap analysis within 5 years, and every 10 years thereafter. It would require the NOAA Administrator to make a report publicly available and provide a briefing and report to Congress on the response capabilities for sick and injured marine mammals in the Arctic regions of the United States.

*Section 10. Authorization of appropriations.*

This section would authorize funding to the NOAA Marine Mammal Health and Stranding Response Program for each of the fiscal years 2021 through 2026. It would also authorize appropriations of \$500,000 to the Marine Mammal Unusual Mortality Event Fund for each of fiscal years 2021 through 2026.

*Section 11. Definitions.*

This section would define the terms “entangle”, “entanglement”, “Health MAP”, and “Observation System”.

*Section 12. Study on marine mammal mortality.*

This section would require the NOAA Administrator, in consultation with the Secretary of Interior and Marine Mammal Commission, to conduct a study to evaluate factors (e.g., heat waves, harmful algal blooms, prey availability, and habitat degradation) and their impacts on marine mammal mortality within 12 months of enactment of this Act. The Administrator would make the study publicly available in a report and would provide a briefing to Congress.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

# MARINE MAMMAL PROTECTION ACT OF 1972

\* \* \* \* \*

## TITLE IV—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

\* \* \* \* \*

[16 U.S.C. 1421a]

### SEC. 402. DETERMINATION; DATA COLLECTION AND DISSEMINATION.

(a) DETERMINATION FOR RELEASE.—The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

(b) COLLECTION.—The Secretary shall, in consultation with the Secretary of the Interior, collect and update, periodically, existing information on—

(1) procedures and practices for—

(A) rescuing and rehabilitating stranded *or entangled* marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

(3) **【strandings,】** *strandings and entanglements, including unusual mortality events*, which the Secretary shall compile and analyze, by *stranding* region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded **【marine mammals; and】** *marine mammals and entangled marine mammals to allow comparison of the causes of illness and deaths in stranded marine mammals and entangled marine mammals with physical, chemical, and biological environmental parameters; and*

(4) other life history and reference level data, including marine mammal tissue **【analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.】***analyses.*

**【(c) AVAILABILITY.—The Secretary shall make information collected under this section available to stranding network participants and other qualified scientists.】**

(c) INFORMATION REQUIRED TO BE SUBMITTED AND COLLECTED.—

(1) IN GENERAL.—After each response to a stranding or entanglement event, the Secretary shall collect (including from any staff of the National Oceanic and Atmospheric Administration that respond directly to such an event), and shall require each stranding network participant who responds to that stranding or entanglement to submit to the Administrator of the National Oceanic and Atmospheric Administration—

(A) data on the stranding event, including NOAA Form 89–864 (OMB #0648–0178), NOAA Form 89–878 (OMB #0648–0178), similar successor forms, or similar information in an appropriate format required by the United States Fish and Wildlife Service for species under its management authority;

(B) supplemental data to the data described in subparagraph (A), which may include, as available, relevant information about—

- (i) weather and tide conditions;
- (ii) offshore human, predator, or prey activity;
- (iii) morphometrics;
- (iv) behavior;
- (v) health assessments;
- (vi) life history samples; or
- (vii) stomach and intestinal contents; and

(C) data and results from laboratory analysis of tissues, which may include, as appropriate and available—

- (i) histopathology;
- (ii) toxicology;
- (iii) microbiology
- (iv) virology; or
- (v) parasitology.

(2) TIMELINE.—A stranding network participant shall submit—

(A) the data described in paragraph (1)(A) not later than 30 days after the date of a response to a stranding or entanglement event;

(B) the compiled data described in paragraph (1)(B) not later than 30 days after the date on which the data is available to the stranding network participant; and

(C) the compiled data described in paragraph (1)(C) not later than 30 days after the date on which the laboratory analysis has been reported to the stranding network participant.

(d) AVAILABILITY OF DATA.—

(1) IN GENERAL.—The Secretary shall develop a program to make information, including any data and metadata collected under paragraphs (3) or (4) of subsection (b) or subsection (c), available to researchers, stranding network participants, and the public—

(A) to improve real-time coordination of response to stranding and entanglement events across geographic areas and between stranding coordinators;

(B) to identify and quickly disseminate information on potential public health risks;

(C) to facilitate integrated interdisciplinary research;

(D) to facilitate peer-reviewed publications;

(E) to archive regional data into 1 national database for future analyses; and

(F) for education and outreach activities.

(2) ACCESS TO DATA.—The Secretary shall ensure that any data or metadata collected under subsection (c)—

(A) by staff of the National Oceanic and Atmospheric Administration that responded directly to a stranding or entanglement event is available to the public through the Health MAP and the Observation System not later than 30 days after that data or metadata is collected by, available to, or reported to the Secretary; and

(B) by a stranding network participant that responded directly to a stranding or entanglement event is made available to the public through the Health MAP and the Observation System 2 years after the date on which that data is submitted to the Secretary under subsection (c).

(3) EXCEPTIONS.—

(A) WRITTEN RELEASE.—Notwithstanding paragraph (2)(B), the Secretary may make data described in paragraph (2)(B) publicly available earlier than 2 years after the date on which that data is submitted to the Secretary under subsection (c), if the stranding network participant has completed a written release stating that such data may be made publicly available.

(B) LAW ENFORCEMENT.—Notwithstanding paragraph (2), the Secretary may withhold data for a longer period than the period of time described in paragraph (2) in the event of a law enforcement action or legal action that may be related to that data.

(e) STANDARDS.—The Secretary, in consultation with the marine mammal stranding community, shall—

(1) make publicly available guidance about uniform data and metadata standards to ensure that data collected in accordance with this section can be archived in a form that is readily accessible and understandable to the public through the Health MAP and the Observation System; and

(2) periodically update such guidance.

(f) MANAGEMENT POLICY.—In collaboration with the regional stranding networks, the Secretary shall develop, and periodically update, a data management and public outreach collaboration policy for stranding or entanglement events.

[16 U.S.C. 1421b]

**SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE AGREEMENTS.**

(a) IN GENERAL.—The Secretary may enter into an agreement under section 112(c) with any person to take marine mammals under section 109(h)(1) in response to a stranding~~].~~*or entanglement.*

(b) REQUIRED PROVISION.—An agreement authorized by subsection (a) shall—

(1) specify each person who is authorized to perform activities under the agreement; **[and]**

(2) specify any terms and conditions under which a person so specified may delegate that authority to another person~~].~~*;*  
*and*

(3) include a description of the data management and public outreach policy established under section 402(f).

(c) REVIEW.—The Secretary shall periodically review agreements under section 112(c) that are entered into pursuant to this title, for performance adequacy and effectiveness.

[16 U.S.C. 1421c]

**SEC. 404. \* \* \***

[16 U.S.C. 1421d]

**SEC. 405. UNUSUAL MORTALITY EVENT ACTIVITY FUNDING.**

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury an interest bearing fund to be known as the “Marine Mammal Unusual Mortality Event Fund”, which shall consist of amounts deposited into the Fund under subsection (c).

**[(b) USES.—**

**[(1) IN GENERAL.—Amounts in the Fund—**

**[(A) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior—**

**[(i) to compensate persons for special costs incurred in acting in accordance with the contingency plan issued under section 404(b) or under the direction of an Onsite Coordinator for an unusual mortality event;**

**[(ii) for reimbursing any stranding network participant for costs incurred in preparing and transporting tissues collected with respect to an unusual mortality event for the Tissue Bank; and**

**[(iii) for care and maintenance of marine mammal seized under section 104(c)(2)(D); and**

**[(B) shall remain available until expended.**

**[(2) PENDING CLAIMS.—If sufficient amounts are not available in the Fund to satisfy any authorized pending claim, such claim shall remain pending until such time as sufficient amounts are available. All authorized pending claims shall be satisfied in the order received.]**

**(b) USES.—Amounts in the Fund—**

*(1) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior, and dispersed among claimants based on budgets approved by the Secretary prior to expenditure—*

*(A) to make advance, partial, or progress payments under contracts or other funding mechanisms for property, supplies, salaries, services, and travel costs incurred in acting in accordance with the contingency plan issued under section 404(b) or under the direction of an Onsite Coordinator for an unusual mortality event designated under section 404(a)(2)(B)(iii);*

*(B) for reimbursing any stranding network participant for costs incurred in the collection, preparation, analysis, and transportation of marine mammal tissues and samples collected with respect to an unusual mortality event for the Tissue Bank; and*

*(C) for the care and maintenance of a marine mammal seized under section 104(c)(2)(D); and*

*(2) shall remain available until expended.*

(c) DEPOSITS INTO THE FUND.—There shall be deposited into the Fun.—

- (1) amounts appropriated to the Fund;
- (2) other amounts appropriated to the Secretary for use with respect to unusual mortality events; **[and]**
- (3) amounts received by the United States in the form of gifts, devises, and bequests under subsection (d)**[.]**;
- (4) *not more than \$250,000 per year, as determined by the Secretary of Commerce, from sums collected as fines, penalties, or forfeitures of property by the Secretary of Commerce for violations of any provision of this Act; and*
- (5) *sums received from emergency declaration grants for marine mammal conservation.*

(d) ACCEPTANCE OF DONATIONS.—For purposes of carrying out this title and section 104(c)(2)(D), the Secretary may accept, solicit, and use the services of volunteers, and may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

[16 U.S.C. 1421e]

**SEC. 406. LIABILITY.**

(a) IN GENERAL.—A person who is authorized to respond to a stranding or *entanglement* pursuant to an agreement entered into under section 112(c) is deemed to be an employee of the **[government]** *Government* for purposes of chapter 171 of title 28, United States Code, with respect to actions of the person that are—

- (1) in accordance with the agreement; and
- (2) in the case of an unusual mortality event, in accordance with—
  - (A) the contingency plan issued under section 404(b);
  - (B) the instructions of an Onsite Coordinator designated under section 404(c); or
  - (C) the best professional judgment of an Onsite Coordinator, in the case of any matter that is not covered by the contingency plan.

(b) LIMITATION.—Subsection (a) does not apply to actions of a person described in that subsection that are grossly negligent or that constitute willful misconduct.

[16 U.S.C. 1421f]

**SEC. 407. NATIONAL MARINE MAMMAL TISSUE BANK AND TISSUE ANALYSIS.**

(a) \* \* \*

(b) \* \* \*

(c) DATA BASE.—

(1) IN GENERAL.—The Secretary shall maintain a central data base which provides an effective means for tracking and accessing data on marine mammals, including relevant data on marine mammal tissues collected for and maintained in the Tissue Bank.

(2) CONTENTS.—The data base established under this subsection shall include—

- (A) reference data on **[the health of marine mammals and]** *marine mammal health and mortality and the health of populations of marine mammals; and*
- (B) data on species of marine mammals that are subject to unusual mortality events.

(d) ACCESS.—The Secretary shall, in consultation with the Secretary of the Interior, establish criteria, after an opportunity for public review and comment, for *public* access to—

- (1) marine mammal tissues in the Tissue Bank;
- (2) analyses conducted pursuant to subsection (b); and
- (3) marine mammal data in the data base maintained under subsection (c); which provide for appropriate uses of the tissues, analyses, and data by qualified scientists, including stranding network participants.

[16 U.S.C. 1421f-1]

**SEC. 408. [JOHN H. PRESCOTT MARINE MAMMAL RESCUE ASSISTANCE GRANT PROGRAM] MARINE MAMMAL RESCUE AND RESPONSE GRANT PROGRAM AND RAPID RESPONSE FUND.**

[(a) IN GENERAL.—(1) Subject to the availability of appropriations, the Secretary shall conduct a grant program to be known as the John H. Prescott Marine Mammal Rescue Assistance Grant Program, to provide grants to eligible stranding network participants for the recovery or treatment of marine mammals, the collection of data from living or dead stranded marine mammals for scientific research regarding marine mammal health, and facility operation costs that are directly related to those purposes.

[(2)(A) The Secretary shall ensure that, to the greatest extent practicable, funds provided as grants under this subsection are distributed equitably among the stranding regions designated as of the date of the enactment of the Marine Mammal Rescue Assistance Act of 2000, and in making such grants shall give preference to those facilities that have established records for rescuing or rehabilitating sick and stranded marine mammals in each of the respective regions, or subregions.

[(B) In determining priorities among such regions, the Secretary may consider—

- [(i) any episodic stranding or any mortality event other than an event described in section 410(6), that occurred in any region in the preceding year;
- [(ii) data regarding average annual strandings and mortality events per region; and
- [(iii) the size of the marine mammal populations inhabiting a geographic area within such a region.

[(b) APPLICATION.—To receive a grant under this section, a stranding network participant shall submit an application in such form and manner as the Secretary may prescribe.

[(c) CONSULTATION.—The Secretary shall consult with the Marine Mammal Commission, a representative from each of the designated stranding regions, and other individuals who represent public and private organizations that are actively involved in rescue, rehabilitation, release, scientific research, marine conservation, and forensic science regarding stranded marine mammals, regarding the development of criteria for the implementation of the grant program and the awarding of grants under the program.

[(d) LIMITATION.—The amount of a grant under this section shall not exceed \$100,000.]

(a) DEFINITIONS.—*In this section:*

(1) EMERGENCY ASSISTANCE.—

(A) IN GENERAL.—*The term “emergency assistance” means—*

(i) financial assistance provided to respond to, or that results from, a stranding event or entanglement event that—

(I) causes an immediate increase in the cost of a response, recovery, or rehabilitation that is greater than the usual cost of a response, recovery, or rehabilitation;

(II) is cyclical or endemic; or

(III) involves a marine mammal that is out of the normal range for that marine mammal; or

(ii) financial assistance provided to respond to, or that results from, a stranding event or an entanglement event that the appropriate Secretary or State or Tribal government considers to be an emergency.

(B) *EXCLUSIONS.*—The term “emergency assistance” does not include financial assistance to respond to an unusual mortality event.

(2) *SECRETARY.*—The term “Secretary” has the meaning given that term in section 3(12)(A).

(3) *STRANDING REGION.*—The term ‘stranding region’ means a geographic region designated by the applicable Secretary for purposes of administration of this title.

(b) *JOHN H. PRESCOTT MARINE MAMMAL RESCUE AND RESPONSE GRANT PROGRAM.*—

(1) *IN GENERAL.*—Subject to the availability of appropriations or other funding, the applicable Secretary shall carry out a grant program, to be known as the “John H. Prescott Marine Mammal Rescue and Response Grant Program” (referred to in this section as the “grant program”), to award grants to eligible stranding network participants or stranding network collaborators, as described in this subsection.

(2) *PURPOSES.*—The purposes of the grant program are to provide for—

(A) the recovery, care, or treatment of sick, injured, or entangled marine mammals;

(B) responses to marine mammal stranding events that require emergency assistance;

(C) the collection of data and samples from living or dead stranded marine mammals for scientific research or assessments regarding marine mammal health;

(D) facility operating costs that are directly related to activities described in subparagraph (A), (B), or (C); and

(E) development of stranding network capacity, including training for emergency response, where facilities do not exist or are sparse.

(3) *CONTRACT, GRANT, AND COOPERATIVE AGREEMENT AUTHORITY.*—

(A) *IN GENERAL.*—The applicable Secretary may enter into a contract, grant, or cooperative agreement with any eligible stranding network participant or stranding network collaborator, as the Secretary determines to be appropriate, for the purposes described in paragraph (2).

(B) *EMERGENCY AWARD FLEXIBILITY.*—Following a request for emergency award flexibility and analysis of the

merits of and necessity for such a request, the applicable Secretary may—

(i) amend any contract, grant, or cooperative agreement entered into under this paragraph, including provisions concerning the period of performance; or

(ii) waive the requirements under subsection (f) for grant applications submitted during the provision of emergency assistance.

(4) *EQUITABLE DISTRIBUTION OF FUNDS.*—

(A) *IN GENERAL.*—The Secretary shall ensure, to the extent practicable, that funds awarded under the grant program are distributed equitably among the stranding regions.

(B) *CONSIDERATIONS.*—In determining priorities among the stranding regions under this paragraph, the Secretary may consider—

(i) equitable distribution within the stranding regions, including the sub regions (including, but not limited to, the Gulf of Mexico);

(ii) any episodic stranding, entanglement, or mortality events, except for unusual mortality events, that occurred in any stranding region in the preceding year;

(iii) any data with respect to average annual stranding, entanglements, and mortality events per stranding region;

(iv) the size of the marine mammal populations inhabiting a stranding region;

(v) the importance of the region's marine mammal populations to the well-being of indigenous communities; and

(vi) the conservation of protected, depleted, threatened, or endangered marine mammal species.

(C) *STRANDINGS.*—For the purposes of this program, priority is to be given to applications focusing on marine mammal strandings.

(5) *APPLICATION.*—To be eligible for a grant under the grant program, a stranding network participant shall—

(A) submit an application in such form and manner as the applicable Secretary prescribes; and

(B) be in compliance with the data reporting requirements under section 402(d) and any applicable reporting requirements of the United States Fish and Wildlife Service for species under its management jurisdiction.

(6) *GRANT CRITERIA.*—The Secretary shall, in consultation with the Marine Mammal Commission, a representative from each of the stranding regions, and other individuals who represent public and private organizations that are actively involved in rescue, rehabilitation, release, scientific research, marine conservation, and forensic science with respect to stranded marine mammals under that Department's jurisdiction, develop criteria for awarding grants under their respective grant programs.

(7) *LIMITATIONS.*—

(A) *MAXIMUM GRANT AMOUNT.*—No grant made under the grant program for a single award may exceed \$150,000 in any 12-month period.

(B) *UNEXPENDED FUNDS.*—Any funds that have been awarded under the grant program but that are unexpended at the end of the 12-month period described in subparagraph (A) shall remain available until expended.

(8) *ADMINISTRATIVE COSTS AND EXPENSES.*—The Secretary's administrative costs and expenses related to reviewing and awarding grants under the grant program, in any fiscal year may not exceed the greater of—

(A) 6 percent of the amounts made available each fiscal year to carry out the grant program; or

(B) \$80,000.

(9) *TRANSPARENCY.*—The Secretary shall make publicly available a list of grant proposals for the upcoming fiscal year, funded grants, and requests for grant flexibility under this subsection.

(c) *JOSEPH R. GERACI MARINE MAMMAL RESCUE AND RAPID RESPONSE FUND.*—

(1) *IN GENERAL.*—There is established in the Treasury of the United States an interest-bearing fund, to be known as the “Joseph R. Geraci Marine Mammal Rescue and Rapid Response Fund” (referred to in this section as the “Rapid Response Fund”).

(2) *USE OF FUNDS.*—Amounts in the Rapid Response Fund shall be available only for use by the Secretary to provide emergency assistance.

(d) *AUTHORIZATION OF APPROPRIATIONS.*—

(1) *IN GENERAL.*—

(A) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out the grant program \$7,000,000 for each of fiscal years 2021 through 2026, to remain available until expended, of which for each fiscal year—

(i) \$6,000,000 shall be made available to the Secretary of Commerce; and

(ii) \$1,000,000 shall be made available to the Secretary of the Interior.

(B) *DERIVATION OF FUNDS.*—Funds to carry out the activities under this section shall be derived from amounts authorized to be appropriated pursuant to subparagraph (A) that are enacted after the date of enactment of the Marine Mammal Research and Response Act of 2021.

(2) *JOSEPH R. GERACI MARINE MAMMAL RESCUE AND RAPID RESPONSE FUND.*—There is authorized to be appropriated to the Rapid Response Fund \$500,000 for each of fiscal years 2021 through 2026.

(e) *ACCEPTANCE OF DONATIONS.*—For the purposes of carrying out this section, the Secretary may solicit, accept, receive, hold, administer, and use gifts, devises, and bequests without any further approval or administrative action.

[(e)](f) *MATCHING REQUIREMENT.*—

(1) IN GENERAL.—The no.—Federal share of the costs of an activity conducted with a grant under this section shall be 25 percent of such costs.

(2) IN-KIND CONTRIBUTIONS.—The Secretary may apply to the non-Federal share of an activity conducted with a grant under this section the amount of funds, and the fair market value of property and services, provided by non-Federal sources and used for the activity.

[(f) ADMINISTRATIVE EXPENSES.—Of amounts available each fiscal year to carry out this section, the Secretary may expend not more than 6 percent or \$80,000, whichever is greater, to pay the administrative expenses necessary to carry out this section.

[(g) DEFINITIONS.—In this section:

[(1) DESIGNATED STRANDING REGION.—The term “designated stranding region” means a geographic region designated by the Secretary for purposes of administration of this title.

[(2) SECRETARY.—The term “Secretary” has the meaning given that term in section 3(12)(A).

[(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2001 through 2003, to remain available until expended, of which—

[(1) \$4,000,000 may be available to the Secretary of Commerce; and

[(2) \$1,000,000 may be available to the Secretary of the Interior.]

**SEC. 408A. MARINE MAMMAL HEALTH MONITORING AND ANALYSIS PLATFORM (HEALTH MAP).**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Marine Mammal Research and Response Act of 2021, the Secretary, acting through the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Secretary of the Interior and the Marine Mammal Commission, shall—

(1) establish a marine mammal health monitoring and analysis platform (referred to in this Act as the “Health MAP”);

(2) incorporate the Health MAP into the Observation System; and

(3) make the Health MAP—

(A) publicly accessible through the web portal of the Observation System; and

(B) interoperable with other national data systems or other data systems for management or research purposes, as practicable.

(b) PURPOSES.—The purposes of the Health MAP are—

(1) to promote—

(A) interdisciplinary research among individuals with knowledge and experience in marine mammal science, marine mammal veterinary and husbandry practices, medical science, and oceanography, and with other marine scientists;

(B) timely and sustained dissemination and availability of marine mammal health, stranding, entanglement, and mortality data;

(C) identification of spatial and temporal patterns of marine mammal mortality, disease, and stranding;

(D) evaluation of marine mammal health in terms of mortality, as well as sublethal marine mammal health impacts;

(E) improved collaboration and forecasting of marine mammal and larger ecosystem health events;

(F) rapid communication and dissemination of information regarding marine mammal strandings that may have implications for human health, such as those caused by harmful algal blooms; and

(G) increased accessibility of data in a user friendly visual interface for public education and outreach; and

(2) to contribute to an ocean health index that incorporates marine mammal health data.

(c) *REQUIREMENTS.*—*The Health MAP shall—*

(1) *integrate in situ, remote, and other marine mammal health, stranding, and mortality data, including visualizations and metadata, collected by marine mammal stranding networks, Federal, State, local, and Tribal governments, private partners, and academia; and*

(2) *be designed—*

(A) *to enhance data and information availability, including data sharing among stranding network participants, scientists, and the public within and across stranding network regions;*

(B) *to facilitate data and information access across scientific disciplines, scientists, and managers;*

(C) *to facilitate public access to national and regional marine mammal health, stranding, entanglement, and mortality data, including visualizations and metadata, through the national and regional data portals of the Observation System; and*

(D) *in collaboration with, and with input from, States and stranding network participants.*

(d) *PROCEDURES AND GUIDELINES.*—*The Secretary shall establish and implement policies, protocols, and standards for—*

(1) *reporting marine mammal health data collected by stranding networks consistent with subsections (c) and (d) of section 402;*

(2) *promptly transmitting health data from the stranding networks and other appropriate data providers to the Health MAP;*

(3) *disseminating and making publicly available data on marine mammal health, stranding, entanglement, and mortality data in a timely and sustained manner; and*

(4) *integrating additional marine mammal health, stranding, or other relevant data as the Secretary determines appropriate.*

(e) *CONSULTATION.*—*The Administrator of the National Oceanic and Atmospheric Administration shall maintain and update the Health MAP in consultation with the Secretary of the Interior and the Marine Mammal Commission.*

(f) *CONTRIBUTIONS.*—*For purposes of carrying out this section, the Secretary may solicit, accept, receive, hold, administer, and use*

*gifts, devises, and bequests without any further approval or administrative action.*

**SEC. 408B. REPORTS TO CONGRESS.**

(a) **DEFINITION OF APPROPRIATE COMMITTEES OF CONGRESS.**—*In this section, the term “appropriate committees of Congress” means—*

(1) *the Committee on Commerce, Science, and Transportation of the Senate;*

(2) *the Committee on Natural Resources of the House of Representatives; and*

(3) *the Committee on Science, Space, and Technology of the House of Representatives.*

(b) **HEALTH MAP STATUS REPORT.**—

(1) **IN GENERAL.**—*Not later than 2 year after the date of enactment of the Marine Mammal Research and Response Act of 2021, the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Marine Mammal Commission, the Secretary of the Interior, and the National Ocean Research Leadership Council, shall submit to the appropriate committees of Congress a report describing the status of the Health MAP.*

(2) **REQUIREMENTS.**—*The report under paragraph (1) shall include—*

(A) *a detailed evaluation of the data made publicly available through the Health MAP;*

(B) *a detailed list of any gaps in data collected pursuant to the Health MAP, a description of the reasons for those gaps, and recommended actions to close those gaps;*

(C) *an analysis of the effectiveness of using the website of the Observation System as the platform to collect, organize, visualize, archive, and disseminate marine mammal stranding and health data;*

(D) *a list of publications, presentations, or other relevant work product resulting from, or produced in collaboration with, the Health MAP;*

(E) *a description of emerging marine mammal health concerns and the applicability of those concerns to human health;*

(F) *an analysis of the feasibility of the Observation System being used as an alert system during stranding events, entanglement events, and unusual mortality events for the stranding network, Observation System partners, Health MAP partners, Federal and State agencies, and local and Tribal governments;*

(G) *an evaluation of the use of Health MAP data to predict broader ecosystem events and changes that may impact marine mammal or human health and specific examples of proven or potential uses of Observation System data for those purposes; and*

(H) *recommendations for the Health MAP with respect to—*

(i) *filling any identified data gaps;*

(ii) *standards that could be used to improve data quality, accessibility, transmission, interoperability, and sharing;*

(iii) any other strategies that would contribute to the effectiveness and usefulness of the Health MAP; and

(iv) the funding levels needed to maintain and improve the Health MAP.

(c) DATA GAP ANALYSIS.—

(1) IN GENERAL.—Not later than 5 years after the date on which the report required under subsection (b)(1) is submitted, and every 10 years thereafter, the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Marine Mammal Commission and the Secretary of Commerce, shall—

(A) make publicly available a report on the data gap analysis described in paragraph (2); and

(B) provide a briefing to the appropriate committees of Congress concerning that data gap analysis.

(2) REQUIREMENTS.—The data gap analysis under paragraph (1) shall include—

(A) an overview of existing participants within a marine mammal stranding network;

(B) an identification of coverage needs and participant gaps within a network;

(C) an identification of data and reporting gaps from members of a network; and

(D) an analysis of how stranding and health data are shared and made available to scientists, academics, State, local, and Tribal governments, and the public.

(d) MARINE MAMMAL RESPONSE CAPABILITIES IN THE ARCTIC.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Marine Mammal Research and Response Act of 2021, the Administrator of the National Oceanic and Atmospheric Administration, the Director of the United States Fish and Wildlife Service, and the Director of the United States Geologic Survey, in consultation with the Marine Mammal Commission and the Secretary of the Interior, shall—

(A) make publicly available a report describing the response capabilities for sick and injured marine mammals in the Arctic regions of the United States; and

(B) provide a briefing to the appropriate committees of Congress on that report.

(2) ARCTIC.—The term “Arctic” has the meaning given the term in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

(3) REQUIREMENTS.—The report under paragraph (1) shall include—

(A) a description, developed in consultation with the Fish and Wildlife Service of the Department of the Interior, of all marine mammal stranding agreements in place for the Arctic region of the United States, including species covered, response capabilities, facilities and equipment, and data collection and analysis capabilities;

(B) a list of State and local government agencies that have personnel trained to respond to marine mammal strandings in the Arctic region of the United States;

(C) an assessment of potential response and data collection partners and sources of local information and knowledge, including Alaska Native people and villages;

(D) an analysis of spatial and temporal trends in marine mammal strandings and unusual mortality events that are correlated with changing environmental conditions in the Arctic region of the United States;

(E) a description of training and other resource needs to meet emerging response requirements in the Arctic region of the United States;

(F) an analysis of oiled marine mammal response and rehabilitation capabilities in the Arctic region of the United States, including personnel, equipment, facilities, training, and husbandry capabilities, and an assessment of factors that affect response and rehabilitation success rates; and

(G) recommendations to address future stranding response needs for marine mammals in the Arctic region of the United States.

[16 U.S.C. 1421g]

**SEC. 409. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated—

(1) to the Secretary for carrying out this title (other than sections 405 and 407) \$250,000 for each of fiscal years [1993 and 1994;] 2021 through 2026;

(2) to the Secretary for carrying out section 407, \$250,000 for each of fiscal years [1993 and 1994;] 2021 through 2026; and

(3) to the Fund, \$500,000 for [fiscal year 1993.] for each of fiscal years 2021 through 2026.

[16 U.S.C. 1421h]

**SEC. 410. DEFINITIONS.**

In this title, the following definitions apply:

(1) The term “entangle” or “entanglement” means an event in the wild in which a living or dead marine mammal has gear, rope, line, net, or other material wrapped around or attached to the marine mammal and is—

(A) on lands under the jurisdiction of the United States, including beaches and shorelines; or

(B) in waters under the jurisdiction of the United States, including any navigable waters.

[(1)] (2) [The term] Except as used in section 408, the term “Fund” means the Marine Mammal Unusual Mortality Event Fund established by section 405(a).

(3) The term “Health MAP” means the Marine Mammal Health Monitoring and Analysis Platform established under section 408A(a)(1).

(4) The term “Observation System” means the National Integrated Coastal and Ocean Observation System established under section 12304 of the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3603).

[(2)] (5) The term “Office” means the Office of Protected Resources, in the National Marine Fisheries Service.

[(3)] (6) The term “stranding” means an event in the wild in which—

- (A) a marine mammal is dead and is—
  - (i) on a beach or shore of the United States; or
  - (ii) in waters under the jurisdiction of the United States (including any navigable waters); or
- (B) a marine mammal is alive and is—
  - (i) on a beach or shore of the United States and unable to return to the water;
  - (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or
  - (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

[(4)] (7) The term “stranding network participant” means a person who is authorized by an agreement under section 112(c) to take marine mammals as described in section 109(h)(1) in response to a stranding.

[(5)] (8) The term “Tissue Bank” means the National Marine Tissue Bank provided for under section 407(a).

[(6)] (9) The term “unusual mortality event” means a stranding that—

- (A) is unexpected;
- (B) involves a significant die-off of any marine mammal population; and
- (C) demands immediate response.

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