

110TH CONGRESS  
2D SESSION

# H. R. 5429

To amend the Marine Mammal Protection Act of 1972 to authorize appropriations for marine mammal cooperative management agreements in Alaska, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2008

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To amend the Marine Mammal Protection Act of 1972 to authorize appropriations for marine mammal cooperative management agreements in Alaska, 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 Coop-  
5       erative Agreements in Alaska Amendments Act of 2008”.

6       **SEC. 2. COOPERATIVE AGREEMENTS IN ALASKA.**

7       (a) DEFINITION OF DEPLETION AND DEPLETED.—

8       Section 3(1)(A) of the Marine Mammal Protection Act of

1 1972 (16 U.S.C. 1362(1)(A)) is amended by striking “of  
2 this Act,” and inserting “and, for any stock subject to a  
3 cooperative agreement with a harvest management plan  
4 entered into under section 119, those Alaska Native orga-  
5 nizations that are signatories to such an agreement.”.

6 (b) EXEMPTION OF TAKINGS FOR SUBSISTENCE OR  
7 AUTHENTIC NATIVE ARTICLES.—Section 101(b) (16  
8 U.S.C. 1371) is amended by striking “section 109” and  
9 inserting “sections 109 and 119(c)”.

10 (c) USE OF ALASKA NATIVE ORGANIZATIONS FOR  
11 ENFORCEMENT.—Section 107(a) (16 U.S.C. 1377(a)) is  
12 amended by inserting “, or of an Alaska Native organiza-  
13 tion for purposes of enforcing this title pursuant to a har-  
14 vest management plan with the organization under section  
15 119” before the period at the end.

16 (d) MARINE MAMMAL COOPERATIVE AGREEMENTS  
17 IN ALASKA.—Section 119 (16 U.S.C. 1388) is amended  
18 to read as follows:

19 **“SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS  
20 IN ALASKA.**

21 “(a) MARINE MAMMAL COOPERATIVE AGREEMENTS  
22 IN ALASKA.—

23 “(1) IN GENERAL.—The Secretary may enter  
24 into cooperative agreements with Alaska Native or-  
25 ganizations to conserve and manage any stock of

1       marine mammals and provide comanagement of sub-  
2       sistence use by Alaska Natives. Such agreements  
3       may include, among other purposes—

4               “(A) the collection and analysis of popu-  
5       lation data;

6               “(B) harvest monitoring;

7               “(C) participation in marine mammal re-  
8       search;

9               “(D) development of marine mammal co-  
10       management structures;

11               “(E) collection of biological specimens;

12               “(F) educational and scientific displays;

13               “(G) a harvest management plan gov-  
14       erning Alaska Native subsistence use for those  
15       stocks or species covered by the cooperative  
16       agreement; and

17               “(H) reporting requirements.

18               “(2) CONSULTATION.—The Secretaries shall  
19       consult with each other in the development of coop-  
20       erative agreements to ensure consistency in the im-  
21       plementation of this section.

22               “(3) REPORTING REQUIREMENTS.—

23               “(A) REPORTS BY PERMITTEES.—All  
24       transfers of marine mammal specimens col-  
25       lected under subsection (a)(1)(E) shall be in-

1           cluded in reports under section 104(c)(1) from  
2           scientific researchers who receive the specimens  
3           under authority granted under that section.

4           “(B) REPORTS BY ALASKA NATIVE ORGA-  
5           NIZATIONS.—An Alaska Native organization  
6           shall—

7           “(i) maintain an inventory of all ma-  
8           rine mammal parts used in a display under  
9           subsection (a)(1)(F); and

10           “(ii) provide periodic reports to the  
11           Secretary on such use.

12           “(b) MANAGEMENT PLAN REQUIREMENTS.—

13           “(1) IN GENERAL.—A harvest management  
14           plan established under a cooperative agreement  
15           under this section with an Alaska Native organiza-  
16           tion shall—

17           “(A) apply only to Alaska Natives, in-  
18           cluded in the exemption under section 101(b);

19           “(B) identify the signatories to the plan,  
20           and the stock or species and geographic area  
21           covered by the plan;

22           “(C) be based on biological information  
23           and traditional ecological knowledge;

24           “(D) provide for a sustainable harvest of  
25           each stock or species covered by the plan, and

1       be designed to prevent populations of such  
2       stocks and species from becoming depleted;

3           “(E) have a clearly defined process and  
4       authority for enforcement and implementation  
5       of any management prescriptions under the  
6       plan; and

7           “(F) specify the duration of the plan and  
8       set forth procedures for periodic review and ter-  
9       mination of the plan.

10       “(2) RESPONSIBILITIES OF ALASKA NATIVE OR-  
11       GANIZATION.—A harvest management plan estab-  
12       lished under a cooperative agreement under this sec-  
13       tion must require the Alaska Native organization  
14       to—

15           “(A) monitor compliance by Alaska Na-  
16       tives with the terms of harvest management  
17       plan;

18           “(B) administer its management of marine  
19       mammals in accordance with the terms of the  
20       harvest management plan; and

21           “(C) report to the Secretary on actions  
22       taken to implement the agreement and the har-  
23       vest management plan.

24       “(c) IMPLEMENTING REGULATIONS AND ORDI-  
25       NANCES.—

1                   “(1) REGULATIONS BY SECRETARY.—

2                   “(A) IN GENERAL.—Subject to subparagraph (B), the Secretary—

3                   “(i) shall promulgate such regulations  
4                   as are necessary to carry out this section;  
5                   and

6                   “(ii) may promulgate regulations that  
7                   implement any ordinance, regulation, or  
8                   other provision that—

9                   “(I) is included in an Alaskan  
10                  Native organization harvest management  
11                  plan established under a cooperative  
12                  agreement; and

13                  “(II) restricts the taking or use  
14                  of marine mammals for subsistence  
15                  purposes consistent with such plan.

16                  “(B) LIMITATION.—The Secretary may  
17                  not promulgate any regulation under subparagraph (A) unless the regulation—

18                  “(i) is necessary to carry out this section;

19                  “(ii) is no more restrictive than any  
20                  taking limit or other restriction contained  
21                  in the harvest management plan adopted  
22                  by the Alaska Native organization and im-

9           “(2) DEPLETED STOCKS.—A regulation or ordi-  
10        nance adopted by an Alaska Native organization in  
11        a harvest management plan for a depleted stock  
12        shall apply only to the extent the regulation or ordi-  
13        nance is consistent with regulations issued by the  
14        Secretary under sections 101(b) and 103 that apply  
15        to such stock.

16        "(d) PROHIBITION.—It is unlawful for any Alaska  
17 Native within the geographic area to which a harvest man-  
18 agement plan under this section applies, to take, trans-  
19 port, sell, or possess a marine mammal in violation of the  
20 provisions of a harvest management plan or regulations  
21 promulgated under this section.

22        "(e) GRANTS.—An agreement entered into under this  
23 section may, subject to the availability of appropriations,  
24 include a grant by the Secretary to an Alaska Native orga-  
25 nization for, among other purposes—

1           “(1) collecting and analyzing data on marine  
2           mammal populations;

3           “(2) monitoring the harvest of marine mam-  
4           mals for subsistence and handicraft uses;

5           “(3) participating in marine mammal research  
6           conducted by the Federal Government, the State of  
7           Alaska, academic institutions, or private organiza-  
8           tions; and

9           “(4) developing marine mammal comanagement  
10           structures with Federal and State agencies, and im-  
11           plementing and enforcing any harvest management  
12           plan included in the agreement.

13           “(f) ADVANCE NOTICE AND OPPORTUNITY FOR COM-  
14           MENT REGARDING PROPOSED REGULATIONS.—Before  
15           proposing any regulation under section 101(b) relating to  
16           the taking of a stock of marine mammals that is the sub-  
17           ject of a harvest management plan under this section, the  
18           Secretary shall—

19           “(1) solicit recommendations for such proposed  
20           regulation from each Alaska Native organization en-  
21           gaged in harvest management of the species or stock  
22           pursuant to this section; and

23           “(2) provide to each such organization with a  
24           cooperative agreement—

25           “(A) a copy of the proposed regulation;

1               “(B) an analysis of how the proposed regu-  
2               lation would achieve the goal of being the least  
3               restrictive measure upon subsistence use of the  
4               stock and the conservation of marine mammals;  
5               and

6               “(C) an opportunity to comment on the  
7               proposed regulation prior to publication of any  
8               proposed regulations in the Federal Register.

9               “(g) PUBLIC NOTICE.—The Secretary shall publish  
10    each harvest management plan entered into under this  
11    section.

12               “(h) FACA EXEMPTION.—The Federal Advisory  
13    Committee Act (5 App. U.S.C.) shall not apply with re-  
14    spect to the provision of any advice or recommendations  
15    to the Secretary by any Alaska Native organization (in-  
16    cluding any scientific review group associated with such  
17    an organization), or the obtaining of any advice or rec-  
18    ommendations by the Secretary from such an organiza-  
19    tion, for the purpose of formulation or implementation of  
20    a cooperative agreement under this section.

21               “(i) RELATIONSHIP TO TITLE V.—Nothing in this  
22    section affects title V or any authority under title V of  
23    this Act.

24               “(j) EFFECT OF JURISDICTION.—Nothing in this sec-  
25    tion is intended or shall be construed—

1           “(1) as authorizing any expansion or change in  
2       the respective jurisdiction of Federal, State, or Trib-  
3       al governments over fish and wildlife resources; or

4           “(2) as altering in any respect the existing po-  
5       litical or legal status of Alaska Natives, or the gov-  
6       ernmental or jurisdictional status of Alaska Native  
7       communities or Alaska Native entities.

8       “(k) AUTHORIZATION OF APPROPRIATIONS.—

9           “(1) IN GENERAL.—There are authorized to be  
10     appropriated for the purposes of carrying out this  
11     section—

12           “(A) to the Secretary of the Interior,  
13      \$3,000,000 for each of fiscal years 2007  
14      through 2010; and

15           “(B) to the Secretary of Commerce  
16      \$3,700,000, for each of fiscal years 2007  
17      through 2010 of which not less than \$300,000  
18      shall be for payment to the Indigenous People’s  
19      Council for Marine Mammals, or its successor  
20      organization, for administrative expenses and  
21      statewide coordination between its member  
22      Alaska Native Organizations.

23       “(2) ADMINISTRATIVE COSTS.—Of the amounts  
24      authorized under this section for each of the Sec-  
25      retary of Commerce and the Secretary of the Inte-

1 rior, not more than 5 percent may be used for agen-  
2 cy administrative costs.

3 “(l) REPORT TO CONGRESS.—The Secretaries shall  
4 each issue a report to Congress on—

5 “(1) actions taken to implement this section;  
6 and

7 “(2) the use of funds authorized by this section  
8 by the Secretaries and Alaska Native organizations,  
9 including the Indigenous People’s Council for Ma-  
10 rine Mammals.

11 “(m) INDIGENOUS PEOPLE’s COUNCIL FOR MARINE  
12 MAMMALS DEFINED.—For the purpose of this section the  
13 term ‘Indigenous People’s Council for Marine Mammals’  
14 means a consortium of Alaska Native organizations that  
15 are engaged in the conservation and comanagement of  
16 subsistence use of marine mammals by Alaska Natives.”.

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