

111TH CONGRESS
1ST SESSION

H. R. 2029

To authorize the Marine Mammal Commission to establish a national research program to fund basic and applied research on marine mammals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2009

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

A BILL

To authorize the Marine Mammal Commission to establish a national research program to fund basic and applied research on 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 “National Marine Mam-
5 mal Research Program Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) populations of marine mammals that occur
9 in waters of the United States are resources of sub-

1 stantial ecological, scientific, socioeconomic, and es-
2 thetic value;

3 (2) although progress has been made toward
4 understanding the impacts of human activities and
5 natural environmental changes on marine mammal
6 populations, much work remains to be done;

7 (3) some marine mammal populations are in
8 various stages of recovery, while many others remain
9 critically endangered and their status has not im-
10 proved or has declined;

11 (4) there is a clear need to better understand,
12 evaluate, and mitigate the impacts on marine mam-
13 mals and other marine species of an array of anthro-
14 pogenic activities;

15 (5) data gaps and scientific uncertainty present
16 resource managers with significant challenges in im-
17 plementing the Marine Mammal Protection Act of
18 1972 (16 U.S.C. 1361 et seq.) the Endangered Spe-
19 cies Act of 1973 (16 U.S.C. 1531 et seq.), and the
20 National Environmental Policy Act of 1969 (42
21 U.S.C. 4321 et seq.);

22 (6) funding has been insufficient to support all
23 of the research required to fully understand and
24 properly conserve and manage marine mammal pop-
25 ulations;

1 (7) in particular, in a recent report to Congress
2 the Marine Mammal Commission recommended the
3 establishment of a research program, the initial goal
4 of which is to improve understanding of anthropo-
5 genic sound, its biologically significant effects on
6 marine mammals and marine ecosystems, and effec-
7 tive means for mitigating and monitoring those ef-
8 fects;

9 (8) understanding marine mammals through re-
10 search is essential for using the oceans wisely and
11 protecting marine living resources, and the United
12 States should maintain its world leadership in ma-
13 rine mammal science and oceanography as one key
14 to its competitive future; and

15 (9) the Marine Mammal Commission estab-
16 lished under section 201 of the Marine Mammal
17 Protection Act of 1972 (16 U.S.C. 1401) has re-
18 search and management responsibilities under that
19 Act that make it the appropriate entity to admin-
20 ister a marine mammal research program.

21 **SEC. 3. NATIONAL MARINE MAMMAL RESEARCH PROGRAM.**

22 (a) ESTABLISHMENT OF PROGRAM.—Title II of the
23 Marine Mammal Protection Act of 1972 (16 U.S.C. 1401
24 et seq.) is amended—

1 (1) by inserting after the title heading the fol-
2 lowing:

3 **“Subtitle A—General Provisions”;**

4 and

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

6 **“Subtitle B—Marine Mammal**
7 **Research**

8 **“SEC. 221. NATIONAL MARINE MAMMAL RESEARCH PRO-**
9 **GRAM.**

10 “(a) ESTABLISHMENT.—The Commission shall es-
11 tablish a program to be known as the ‘National Marine
12 Mammal Research Program’.

13 “(b) PURPOSES.—The purposes of the program are
14 as follows:

15 “(1) To undertake research to improve the Na-
16 tion’s understanding of marine mammals, the fac-
17 tors, natural and human related, that affect and
18 threaten the health of their populations and habi-
19 tats, and the means of mitigating those effects to
20 ensure marine mammal conservation.

21 “(2) To coordinate and strengthen scientific re-
22 search efforts in support of those goals by—

23 “(A) identifying and developing partner-
24 ships among Federal agencies, academia, indus-
25 try, and other members of the oceanographic

1 and marine mammal scientific communities in
2 the areas of data collection, research, resource
3 management public education, and communica-
4 tion; and

5 “(B) reporting annually to Congress on the
6 program.

7 “(c) DUTIES.—The Commission shall—

8 “(1) prescribe such policies and procedures nec-
9 essary to implement the Research Program;

10 “(2) implement and support the Research Co-
11 ordinating Committee, established under section
12 222;

13 “(3) supervise the performance of duties by the
14 Program Office established under subsection (d);

15 “(4) prepare an annual report to Congress on
16 research undertaken and benefits thereof; and

17 “(5) conduct periodic program reviews.

18 “(d) AUTHORITIES.—The Commission shall have the
19 authority, within the limits of available appropriations, to
20 do all things necessary to carry out the provisions of this
21 section, including the authority to—

22 “(1) enter into contracts, make grants, or enter
23 other arrangements as may be necessary for the pur-
24 pose of implementing the Research Program and
25 carrying out the responsibilities of the Research Co-

1 ordinating Committee established under section
2 222—

3 “(A) with any agency or instrumentality of
4 the United States, with any State, territory, or
5 possession or any political subdivision thereof,
6 or with any person, firm, association, corpora-
7 tion, or educational institution;

8 “(B) with or without reimbursement;

9 “(C) without performance or other bonds;

10 and

11 “(D) without regard to section 3709 of the
12 Revised Statutes (41 U.S.C. 5);

13 “(2) accept and use the services of voluntary
14 and uncompensated personnel necessary for the con-
15 duct of the work of the Research Program and pro-
16 vide transportation and subsistence as authorized by
17 section 5703 of title 5, United States Code, for per-
18 sons serving without compensation; and

19 “(3) prescribe such rules and regulations as it
20 determines necessary governing the operation and
21 organization of the Research Program.

22 “(e) NATIONAL MARINE MAMMAL RESEARCH PRO-
23 GRAM OFFICE.—

24 “(1) ESTABLISHMENT.—The Commission shall
25 establish a National Marine Mammal Research Pro-

1 gram Office for the Research Program. The Com-
2 mission shall use competitive procedures in selecting
3 an operator for the Program Office.

4 “(2) DUTIES.—The Commission shall assign
5 the following duties to the Program Office:

6 “(A) Work with the Commission and the
7 Research Coordinating Committee to draft the
8 program announcement, identify proposal selec-
9 tion criteria, organize and conduct an inde-
10 pendent peer review of the proposals, and rec-
11 ommend to the Commission and Research Co-
12 ordinating Committee projects and funding allo-
13 cations for implementation under the Research
14 Program.

15 “(B) Manage the process for soliciting pro-
16 posals for research, including managing peer re-
17 view of such projects, subject to oversight and
18 approval by the Commission and the Research
19 Coordinating Committee.

20 “(C) Submit an annual report on the sta-
21 tus of all projects and activities of the office,
22 for review by the Research Coordinating Com-
23 mittee and final approval and release by the
24 Commission.

1 “(D) Undertake any additional duties for
2 the administration of the Research Program
3 that the Commission or the Research Coordinating
4 Committee considers appropriate.

5 “(f) ANNUAL REPORT.—The Commission shall trans-
6 mit to Congress an annual report on progress made in
7 implementing this subtitle. The report shall contain the
8 following:

9 “(1) A description of activities of the Research
10 Program carried out during the preceding fiscal
11 year, with a list of the members of the Research Co-
12 ordinating Committee and any subcommittees in ex-
13 istence during the fiscal year.

14 “(2) A general outline of the activities planned
15 or conducted for the Research Program during the
16 fiscal year for which the report is prepared.

17 “(3) A description of the involvement of the Re-
18 search Program with Federal interagency coordi-
19 nating entities.

20 “(4) The programs, projects, and activities of
21 the Research Program and the estimated expendi-
22 tures under such programs, projects, and activities
23 during the subsequent fiscal year.

1 **“SEC. 222. NATIONAL MARINE MAMMAL RESEARCH CO-**
2 **ORDINATING COMMITTEE.**

3 “(a) COMMITTEE.—The President, after consultation
4 with the Commission, shall create a National Marine
5 Mammal Research Coordinating Committee.

6 “(b) MEMBERSHIP.—

7 “(1) IN GENERAL.—The Research Coordinating
8 Committee shall be composed of representatives of
9 the following with experience relevant to the pur-
10 poses of this subtitle:

11 “(A) The Secretary of the Navy.

12 “(B) The Administrator of the National
13 Oceanic and Atmospheric Administration.

14 “(C) The Director of the National Science
15 Foundation.

16 “(D) The Administrator of the National
17 Aeronautics and Space Administration.

18 “(E) The Administrator of the Environ-
19 mental Protection Agency.

20 “(F) The Commandant of the Coast
21 Guard.

22 “(G) The Director of the United States
23 Fish and Wildlife Service.

24 “(H) The Director of the United States
25 Geological Survey.

1 “(I) The Director of the Minerals Manage-
2 ment Service.

3 “(J) The President of the National Acad-
4 emy of Sciences.

5 “(K) The Director of the Office of Science
6 and Technology Policy.

7 “(L) The Director of the Office of Man-
8 agement and Budget.

9 “(M) The Executive Director of the Com-
10 mission.

11 “(N) One member appointed by the Re-
12 search Coordinating Committee from among in-
13 dividuals who will represent the views of ocean
14 industries with expertise in marine mammal bi-
15 ology, marine ecology, oceanography, or marine
16 policy.

17 “(O) One member appointed by the Re-
18 search Coordinating Committee from among in-
19 dividuals who will represent the views of State
20 governments with expertise in marine mammal
21 biology, marine ecology, oceanography, or ma-
22 rine policy.

23 “(P) One member appointed by the Re-
24 search Coordinating Committee from among in-
25 dividuals who will represent the views of aca-

1 demia with expertise in marine mammal biol-
2 ogy, marine ecology, oceanography, or marine
3 policy.

4 “(Q) One member appointed by the Re-
5 search Coordinating Committee from among in-
6 dividuals who will represent the views of the
7 marine conservation community with expertise
8 in marine mammal biology, marine ecology,
9 oceanography, or marine policy.

10 “(R) One member appointed by the Re-
11 search Coordinating Committee from among in-
12 dividuals who will represent such other views as
13 the chairman of such committee considers ap-
14 propriate.

15 “(2) FACA.—The Federal Advisory Committee
16 Act (5 App. U.S.C.) shall not apply to the Research
17 Coordinating Committee.

18 “(3) LIMITATION ON SERVICE ON COMMITTEE
19 OF SCIENTIFIC ADVISORS ON MARINE MAMMALS.—A
20 member of the Research Coordinating Committee
21 may not simultaneously serve as a member of the
22 Committee of Scientific Advisors on Marine Mam-
23 mals established under section 203.

24 “(c) CHAIRMAN AND VICE CHAIRMAN.—The Execu-
25 tive Director of the Marine Mammal Commission shall be

1 the chairman of the Research Coordinating Committee
2 and the Administrator of the National Oceanic and At-
3 mospheric Administration shall be the vice chairman of
4 the Research Coordinating Committee. The chairman may
5 create subcommittees chaired by the representative of any
6 member agency of the Research Coordinating Committee
7 to, among other tasks, receive advice, input, or comments
8 from experts on the national marine mammal research
9 plan developed under section 223.

10 “(d) TERM OF OFFICE.—The term of office of a
11 member of the Research Coordinating Committee ap-
12 pointed under subparagraph (N), (O), (P), (Q), or (R) of
13 subsection (b)(1) shall be 3 years, except that any member
14 appointed to fill a vacancy occurring before the expiration
15 of the term for which the member’s predecessor was ap-
16 pointed shall be appointed for the remainder of such term.

17 “(e) RESPONSIBILITIES.—The Research Coordi-
18 nating Committee shall have the following responsibilities:

19 “(1) Develop a national marine mammal re-
20 search plan under section 223.

21 “(2) Facilitate cooperation among Federal
22 agencies and departments with respect to marine
23 mammal research.

1 “(3) Revise as necessary and approve the pro-
2 gram announcement developed by the Program Of-
3 fice.

4 “(4) Estimate, to the extent practicable, Fed-
5 eral funding needed for marine mammal research ac-
6 tivities to be conducted under the Plan.

7 “(5) Review and revise, at a minimum every 3
8 years or as necessary the marine mammal research
9 plan.

10 “(f) CONTRACT AND GRANT AUTHORITY.—

11 “(1) IN GENERAL.—The Federal departments
12 and agencies involved in the Research Coordinating
13 Committee may participate in interagency financing
14 and share, transfer, receive, obligate, and expend
15 funds appropriated to any Federal participant on
16 the Research Coordinating Committee for the pur-
17 poses of carrying out any administrative or pro-
18 grammatic project or activity under this subtitle, in-
19 cluding support for the Program Office and the Re-
20 search Program. Funds may be transferred among
21 such departments and agencies through an appro-
22 priate instrument that specifies the goods, services,
23 or space being acquired from another Research Co-
24 ordinating Committee member and the costs of the
25 same.

1 “(2) VOLUNTEERS AND GIFTS, DEVISES, AND
2 BEQUESTS.—For the purposes of carrying out this
3 subtitle the Commission may accept, solicit, and use
4 the services of volunteers, and may accept, solicit,
5 receive, hold, administer, and use gifts, devises, and
6 bequests.

7 “(g) NATIONAL RESEARCH COUNCIL EVALUATION.—
8 The chairman of the Research Coordinating Committee
9 shall seek to enter into an agreement with the National
10 Research Council under which the National Research
11 Council shall periodically evaluate the scientific content of
12 the Plan and the implementation of the research con-
13 ducted under the Research Program and provide informa-
14 tion and advice obtained from United States and inter-
15 national sources and recommendations for priorities for
16 future marine mammal research.

17 “(h) PUBLIC PARTICIPATION.—The Executive Direc-
18 tor of the Commission shall publish the Plan, and any re-
19 vision thereof, in the Federal Register for a public com-
20 ment period of not less than 60 days.

21 **“SEC. 223. NATIONAL MARINE MAMMAL RESEARCH PLAN.**

22 “The Research Coordinating Committee shall develop
23 within one year after the date of enactment of this subtitle
24 a comprehensive 5-year national marine mammal research
25 plan to—

1 “(1) improve understanding of marine mam-
2 mals, their health, and their role in the marine envi-
3 ronment;

4 “(2) characterize the impact of human-related
5 activities on marine mammals, at the individual,
6 population, and ecosystem levels;

7 “(3) evaluate existing conservation, mitigation,
8 and monitoring measures;

9 “(4) develop more effective management meas-
10 ures for marine mammals; and

11 “(5) identify critical research gaps and uncer-
12 tainties, establish research priorities, and estimate
13 the budgets needs for each of the priorities.

14 **“SEC. 224. DEFINITIONS.**

15 “In this subtitle:

16 “(1) PLAN.—The term ‘Plan’ means the na-
17 tional marine mammal research plan developed
18 under section 223.

19 “(2) PROGRAM.—The term ‘Program’ means
20 the National Marine Mammal Research Program es-
21 tablished under section 221(a).

22 “(3) PROGRAM OFFICE.—The term ‘Program
23 Office’ means the National Marine Mammal Re-
24 search Program Office established under section
25 221(f).

1 “(4) RESEARCH COORDINATING COMMITTEE.—
 2 The term ‘Research Coordinating Committee’ means
 3 the National Marine Mammal Research Coordi-
 4 nating Committee created under section 222(a).

5 **“SEC. 225. AUTHORIZATION OF APPROPRIATIONS.**

6 “In addition to amounts otherwise authorized to be
 7 appropriated, there is to be authorized to be appropriated
 8 to the Commission to implement this subtitle \$25,000,000
 9 for each of fiscal years 2010, 2011, 2012, 2013, and
 10 2014.”.

11 (b) CLERICAL AMENDMENT.—The table of contents
 12 in the first section of such Act is amended—

13 (1) by inserting after the item for the heading
 14 for title II the following:

 “Subtitle A—General Provisions”;

15 and

16 (2) by adding at the end of the items for title
 17 II the following:

 “Subtitle B—Marine Mammal Research

 “Sec. 221. National Marine Mammal Research Program.

 “Sec. 222. National Marine Mammal Research Coordinating Committee.

 “Sec. 223. National Marine Mammal Research Plan.

 “Sec. 224. Definitions.

 “Sec. 225. Authorization of appropriations.”.

○