

Calendar No. 154111TH CONGRESS
1ST SESSION**S. 859****[Report No. 111-70]**

To amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2009

Ms. CANTWELL (for herself, Ms. SNOWE, Mr. ROCKEFELLER, Mr. KERRY, and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 6, 2009

Reported by Mr. ROCKEFELLER, without amendment

A BILL

To amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, 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 Res-
5 cue Assistance Amendments of 2009”.

1 **SEC. 2. STRANDING AND ENTANGLEMENT RESPONSE.**

2 (a) COLLECTION AND UPDATING OF INFORMA-
 3 TION.—Section 402(b)(1)(A) of the Marine Mammal Pro-
 4 tection Act of 1972 (16 U.S.C. 1421a(b)(1)(A)) is amend-
 5 ed by inserting “or entangled” after “stranded”.

6 (b) ENTANGLEMENT RESPONSE AGREEMENTS.—

7 (1) IN GENERAL.—Section 403 of that Act (16
 8 U.S.C. 1421b) is amended—

9 (A) by striking the section heading and in-
 10 serting the following:

11 **“SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE**
 12 **AGREEMENTS.” ;**

13 and

14 (B) by striking “stranding.” in subsection
 15 (a) and inserting “stranding or entanglement.”.

16 (2) CLERICAL AMENDMENT.—The table of con-
 17 tents for title IV of that Act is amended by striking
 18 the item relating to section 403 and inserting the
 19 following:

“Sec. 403. Stranding or entanglement response agreements.”.

20 (c) LIABILITY.—Section 406(a) of such Act (16
 21 U.S.C. 1421e(a)) is amended by inserting “or entangle-
 22 ment” after “stranding”.

23 (d) ENTANGLEMENT DEFINED.—

24 (1) IN GENERAL.—Section 410 of such Act (16
 25 U.S.C. 1421h) is amended—

1 (A) by redesignating paragraphs (1)
2 through (6) as paragraphs (2) through (7), re-
3 spectively; and

4 (B) by inserting before paragraph (2) (as
5 so redesignated) the following:

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

10 “(A) on a beach or shore of the United
11 States; or

12 “(B) in waters under the jurisdiction of
13 the United States.”.

14 (2) CONFORMING AMENDMENT.—Section
15 408(a)(2)(B)(i) of such Act (16 U.S.C. 1421f-
16 1(a)(2)(B)(i)) is amended by striking “section
17 410(6)” and inserting “section 410(7)”.

18 (e) UNUSUAL MORTALITY EVENT FUNDING.—Sec-
19 tion 405 of such Act (16 U.S.C. 1421d) is amended—

20 (1) by striking “to compensate persons for spe-
21 cial costs” in subsection (b)(1)(A)(i) and inserting
22 “to make advance, partial, or progress payments
23 under contracts or other funding mechanisms for
24 property, supplies, salaries, services, and travel
25 costs”;

1 (2) by striking “preparing and transporting” in
2 subsection (b)(1)(A)(ii) and inserting “the prepara-
3 tion, analysis, and transportation of”;

4 (3) by striking “event for” in subsection
5 (b)(1)(A)(ii) and inserting “event, including such
6 transportation for”;

7 (4) by striking “and” after the semicolon in
8 subsection (c)(2);

9 (5) by striking “subsection (d).” in subsection
10 (c)(3) and inserting “subsection (d); and”; and

11 (6) by adding at the end of subsection (c) the
12 following:

13 “(4) up to \$500,000 per fiscal year (as deter-
14 mined by the Secretary) from amounts appropriated
15 to the Secretary for carrying out this title and the
16 other titles of this Act.”.

17 (f) JOHN H. PRESCOTT MARINE MAMMAL RESCUE
18 AND RESPONSE FUNDING PROGRAM.—

19 (1) AUTHORIZATION OF APPROPRIATIONS.—
20 Section 408(h) of such Act (16 U.S.C. 1421f–1(h))
21 is amended to read as follows:

22 “(h) AUTHORIZATION OF APPROPRIATIONS.—

23 “(1) IN GENERAL.—There are authorized to be
24 appropriated to carry out this section, other than
25 subsection (a)(3), \$7,000,000 for each of fiscal years

1 2010 through 2014, to remain available until ex-
2 pended, of which—

3 “(A) \$6,000,000 may be available to the
4 Secretary of Commerce; and

5 “(B) \$1,000,000 may be available to the
6 Secretary of the Interior.

7 “(2) RAPID RESPONSE FUND.—There are au-
8 thorized to be appropriated to the John H. Prescott
9 Marine Mammal Rescue and Rapid Response Fund
10 established by subsection (a)(3), \$500,000 for each
11 of fiscal years 2010 through 2014.

12 “(3) ADDITIONAL RAPID RESPONSE FUNDS.—
13 There shall be deposited into the Fund established
14 by subsection (a)(3) up to \$500,000 per fiscal year
15 (as determined by the Secretary) from amounts ap-
16 propriated to the Secretary for carrying out this title
17 and the other titles of this Act.”.

18 (2) ADMINISTRATIVE COSTS AND EXPENSES.—
19 Section 408(f) of such Act (16 U.S.C. 1421f–1(f))
20 is amended to read as follows:

21 “(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of
22 the amounts available each fiscal year to carry out this
23 section, the Secretary may expend not more than 6 per-
24 cent or \$80,000, whichever is greater, to pay the adminis-
25 trative costs and administrative expenses to implement the

1 program under subsection (a). Any such funds retained
2 by the Secretary for a fiscal year for such costs and ex-
3 penses that are not used for such costs and expenses be-
4 fore the end of the fiscal year shall be provided under sub-
5 section (a).”.

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

8 (A) by striking so much of subsection (a)
9 as precedes paragraph (2) and inserting the fol-
10 lowing:

11 “(a) IN GENERAL.—(1) Subject to the availability of
12 appropriations, the Secretary shall conduct a program to
13 be known as the John H. Prescott Marine Mammal Res-
14 cue and Response Funding Program, to provide for the
15 recovery or treatment of marine mammals, the collection
16 of data from living or dead stranded or entangled marine
17 mammals for scientific research regarding marine mam-
18 mal health, facility operation costs that are directly related
19 to those purposes, and stranding or entangling events re-
20 quiring emergency assistance. All funds available to imple-
21 ment this section shall be distributed to eligible stranding
22 network participants for the purposes set forth in this
23 paragraph and paragraph (2), except as provided in sub-
24 section (f).”;

1 (B) by redesignating paragraph (2) as
2 paragraph (4) and inserting after paragraph
3 (1) the following:

4 “(2) CONTRACT AUTHORITY.—To carry out the ac-
5 tivities set out in paragraph (1), the Secretary may enter
6 into grants, cooperative agreements, contracts, or such
7 other agreements or arrangements as the Secretary deems
8 appropriate.

9 “(3) PRESCOTT RAPID RESPONSE FUND.—There is
10 established in the Treasury an interest bearing fund to
11 be known as the ‘John H. Prescott Marine Mammal Res-
12 cue and Rapid Response Fund’, which shall consist of a
13 portion of amounts deposited into the Fund under sub-
14 section (h) or received as contributions under subsection
15 (i), and which shall remain available until expended with-
16 out regard to any statutory or regulatory provision related
17 to the negotiation, award, or administration of any grants,
18 cooperative agreements, and contracts.”;

19 (C) by striking “designated as of the date
20 of the enactment of the Marine Mammal Res-
21 cue Assistance Act of 2000, and in making such
22 grants” in paragraph (4), as redesignated, and
23 inserting “as defined in subsection (g)(3). The
24 Secretary”; and

1 (D) by striking “subregions.” in paragraph
2 (4), as redesignated, and inserting “subregions
3 where such facilities exist.”;

4 (E) by striking subsections (d) and (e) and
5 inserting the following:

6 “(d) LIMITATION.—

7 “(1) IN GENERAL.—Support for an individual
8 project under this section may not exceed \$200,000
9 for any 12-month period.

10 “(2) UNEXPENDED FUNDS.—Amounts provided
11 as support for an individual project under this sec-
12 tion that are unexpended or unobligated at the end
13 of such period—

14 “(A) shall remain available until expended;
15 and

16 “(B) shall not be taken into account in any
17 other 12-month period for purposes of para-
18 graph (1).

19 “(e) MATCHING REQUIREMENT.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (2), the non-Federal share of the costs of an
22 activity conducted with funds under this section
23 shall be 25 percent of such Federal costs.

24 “(2) WAIVER.—The Secretary shall waive the
25 requirements of paragraph (1) with respect to an ac-

1 tivity conducted with emergency funds disbursed
2 from the Fund established by subsection (a)(3).

3 “(3) IN-KIND CONTRIBUTIONS.—The Secretary
4 may apply to the non-Federal share of an activity
5 conducted with a grant under this section the
6 amount of funds, and the fair market value of prop-
7 erty and services, provided by non-Federal sources
8 and used for the activity.”; and

9 (F) by redesignating paragraph (2) of sub-
10 section (g) as paragraph (3) and inserting after
11 paragraph (1) the following:

12 “(2) EMERGENCY ASSISTANCE.—The term
13 ‘emergency assistance’ means assistance provided for
14 a stranding or entangling event—

15 “(A) that—

16 “(i) is not an unusual mortality event
17 as defined in section 409(7);

18 “(ii) leads to an immediate increase in
19 required costs for stranding or entangling
20 response, recovery, or rehabilitation in ex-
21 cess of regularly scheduled costs;

22 “(iii) may be cyclical or endemic; and

23 “(iv) may involve out-of-habitat ani-
24 mals; or

1 “(B) is found by the Secretary to qualify
2 for emergency assistance.”.

3 (4) CONTRIBUTIONS.—Section 408 of such Act
4 (16 U.S.C. 1421f–1) is amended by adding at the
5 end the following:

6 “(i) CONTRIBUTIONS.—For purposes of carrying out
7 this section, the Secretary may solicit, accept, receive,
8 hold, administer, and use gifts, devises, and bequests with-
9 out any further approval or administrative action.”.

10 (5) CONFORMING AMENDMENT.—The section
11 heading for section 408 is amended to read as fol-
12 lows:

13 **“SEC. 408. JOHN H. PRESCOTT MARINE MAMMAL RESCUE
14 AND RESPONSE FUNDING PROGRAM.”.**

15 (g) AUTHORIZATION OF APPROPRIATIONS FOR MA-
16 RINE MAMMAL UNUSUAL MORTALITY EVENT FUND.—
17 Section 409 of such Act (16 U.S.C. 1421g) is amended—

18 (1) by striking “1993 and 1994;” in paragraph

19 (1) and inserting “2010 through 2014;”;

20 (2) by striking “1993 and 1994;” in paragraph

21 (2) and inserting “2010 through 2014;” and

22 (3) by striking “fiscal year 1993.” in paragraph

23 (3) and inserting “each of fiscal years 2010 through

24 2014.”.

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