

Calendar No. 881

110TH CONGRESS
2^D SESSION

H. R. 1006

[Report No. 110-421]

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2007

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

JULY 15, 2008

Reported by Mr. INOUE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Marine Mammal Res-
3 cue Assistance Amendments of 2007”.

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

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

9 (b) **ENTANGLEMENT RESPONSE AGREEMENTS.**—

10 (1) **IN GENERAL.**—Section 403 of such Act (16
11 U.S.C. 1421b) is amended—

12 (A) by amending the section heading to
13 read as follows:

14 **“SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE**
15 **AGREEMENTS.”;**

16 and

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

19 (2) **CLERICAL AMENDMENT.**—The table of con-
20 tents at the end of the first section is amended by
21 striking the item relating to section 403 and insert-
22 ing the following:

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

23 (c) **LIABILITY.**—Section 406(a) of such Act (16
24 U.S.C. 1421c(a)) is amended by inserting “or entangle-
25 ment” after “stranding”.

1 (d) ENTANGLEMENT DEFINED.—

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

4 (A) by redesignating paragraphs (1)
5 through (6) in order as paragraphs (2) through
6 (7); and

7 (B) by inserting before paragraph (2) (as
8 so redesignated) the following:

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

13 “(A) on a beach or shore of the United
14 States; or

15 “(B) in waters under the jurisdiction of
16 the United States.”.

17 (2) CONFORMING AMENDMENT.—Section
18 408(a)(2)(B)(i) of such Act (16 U.S.C. 1421f-
19 1(a)(2)(B)(i)) is amended by striking “section
20 410(6)” and inserting “section 410(7)”.

21 (e) JOHN H. PRESCOTT MARINE MAMMAL RESCUE
22 ASSISTANCE GRANT PROGRAM.—

23 (1) AUTHORIZATION OF APPROPRIATIONS FOR
24 GRANT PROGRAM.—Section 408(h) of such Act (16
25 U.S.C. 1421f-1(h)) is amended—

1 (A) by striking “\$5,000,000 for each of
2 fiscal years 2001 through 2003” and inserting
3 “\$7,000,000 for each of fiscal years 2007
4 through 2010”; and

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

7 (2) ADMINISTRATIVE COSTS AND EXPENSES.—
8 Section 408 of such Act (16 U.S.C. 1421f-1) is
9 amended—

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

16 (B) by amending subsection (f) to read as
17 follows:

18 “(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of
19 the amounts available each fiscal year to carry out this
20 section, the Secretary may expend not more than 6 per-
21 cent or \$80,000, whichever is greater, to pay the adminis-
22 trative costs and administrative expenses to implement the
23 grant program under subsection (a). Any such funds re-
24 tained by the Secretary for a fiscal year for such costs
25 and expenses that are not used for such costs and ex-

1 penses before the end of the fiscal year shall be provided
2 as grants under subsection (a).”.

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

5 (A) in subsection (a) by redesignating
6 paragraph (2) as paragraph (3), and by insert-
7 ing after paragraph (1) the following:

8 “(2) Subject to the availability of appropriations, the
9 Secretary may also enter into cooperative agreements, con-
10 tracts, or such other agreements or arrangements as the
11 Secretary considers appropriate to address stranding
12 events requiring emergency assistance.”;

13 (B) in subsection (d) by inserting “(1)”
14 before the text, and by adding at the end the
15 following:

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

19 (C) in subsection (e)—

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

24 (ii) by redesignating paragraph (2) as
25 paragraph (3); and

1 (iii) by inserting after paragraph (1)
2 the following:

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

6 (D) in subsection (g) by redesignating
7 paragraph (2) as paragraph (3) and inserting
8 after paragraph (1) the following:

9 “(2) EMERGENCY ASSISTANCE.—The term
10 ‘emergency assistance’ means assistance provided for
11 a stranding event that—

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

14 “(B) leads to an immediate increase in re-
15 quired costs for stranding response, recovery, or
16 rehabilitation in excess of regularly scheduled
17 costs;

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

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

20 (4) CONTRIBUTIONS.—Section 408 of such Act
21 (16 U.S.C. 1421f-1) is amended by adding at the
22 end the following:

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

1 (f) AUTHORIZATION OF APPROPRIATIONS FOR MA-
 2 RINE MAMMAL UNUSUAL MORTALITY EVENT FUND.—
 3 Section 409(3) of such Act (16 U.S.C. 1421g(3)) is
 4 amended by striking “fiscal year 1993” and inserting
 5 “each of fiscal years 2007 through 2010”.

6 **SECTION 1. SHORT TITLE.**

7 *This Act may be cited as the “Marine Mammal Rescue*
 8 *Assistance Amendments of 2008”.*

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

10 (a) *COLLECTION AND UPDATING OF INFORMATION.—*
 11 *Section 402(b)(1)(A) of the Marine Mammal Protection Act*
 12 *of 1972 (16 U.S.C. 1421a(b)(1)(A)) is amended by inserting*
 13 *“or entangled” after “stranded”.*

14 (b) *ENTANGLEMENT RESPONSE AGREEMENTS.—*

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

17 (A) *by striking the section heading and in-*
 18 *serting the following:*

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

21 (B) *in subsection (a) by striking “stand-*
 22 *ing.” and inserting “stranding or entangle-*
 23 *ment.”.*

24 (2) *CLERICAL AMENDMENT.—The table of con-*
 25 *tents for title IV of that Act is amended by striking*

1 *the item relating to section 403 and inserting the fol-*
2 *lowing:*

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

3 (c) *LIABILITY.*—Section 406(a) of such Act (16 U.S.C.
4 1421e(a)) is amended by inserting “or entanglement” after
5 “stranding”.

6 (d) *ENTANGLEMENT DEFINED.*—

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

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

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

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

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

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

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

1 (e) *JOHN H. PRESCOTT MARINE MAMMAL RESCUE*
2 *AND RESPONSE FUNDING PROGRAM.*—

3 (1) *AUTHORIZATION OF APPROPRIATIONS.*—*Sec-*
4 *tion 408(h) of such Act (16 U.S.C. 1421f–1(h)) is*
5 *amended—*

6 (A) *by striking “\$5,000,000 for each of fis-*
7 *cal years 2001 through 2003” and inserting*
8 *“\$7,000,000 for each of fiscal years 2007 through*
9 *2010”;* *and*

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

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

15 “*(f) ADMINISTRATIVE COSTS AND EXPENSES.*—*Of the*
16 *amounts available each fiscal year to carry out this section,*
17 *the Secretary may expend not more than 6 percent or*
18 *\$80,000, whichever is greater, to pay the administrative*
19 *costs and administrative expenses to implement the pro-*
20 *gram under subsection (a). Any such funds retained by the*
21 *Secretary for a fiscal year for such costs and expenses that*
22 *are not used for such costs and expenses before the end of*
23 *the fiscal year shall be provided under subsection (a).”.*

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

1 (A) in subsection (a)—

2 (i) by striking paragraph (1) and in-
3 serting the following:

4 “(a) *IN GENERAL.*—(1) *Subject to the availability of*
5 *appropriations, the Secretary shall conduct a program to*
6 *be known as the John H. Prescott Marine Mammal Rescue*
7 *and Response Funding Program, to provide for the recovery*
8 *or treatment of marine mammals, the collection of data*
9 *from living or dead stranded marine mammals for sci-*
10 *entific research regarding marine mammal health, facility*
11 *operation costs that are directly related to those purposes,*
12 *and stranding events requiring emergency assistance. All*
13 *funds available to implement this section shall be distrib-*
14 *uted to eligible stranding network participants for the pur-*
15 *poses set forth in this paragraph and paragraph (2), except*
16 *as provided in subsection (f).”;*

17 (ii) by redesignating paragraph (2) as
18 paragraph (4), and by inserting after para-
19 graph (1) the following:

20 “(2) *CONTRACT AUTHORITY.*—*To carry out the activi-*
21 *ties set out in paragraph (1), the Secretary may enter into*
22 *grants, cooperative agreements, contracts, or such other*
23 *agreements or arrangements as the Secretary deems appro-*
24 *priate.*

1 “(3) *EMERGENCY PRESCOTT FUND.*—*There is estab-*
2 *lished in the Treasury an interest bearing fund to be known*
3 *as the “John H. Prescott Marine Mammal Rescue and Re-*
4 *sponse Emergency Fund”, which shall consist of a portion*
5 *of amounts deposited into the Fund under subsection (h)*
6 *or received as contributions under subsection (i), and which*
7 *shall remain available until expended without regard to*
8 *any statutory or regulatory provision related to the negotia-*
9 *tion, award, or administration of any grants, cooperative*
10 *agreements, and contracts.”;*

11 *(iii) by striking “designated as of the*
12 *date of the enactment of the Marine Mam-*
13 *mal Rescue Assistance Act of 2000, and in*
14 *making such grants” in paragraph (4), as*
15 *redesignated, and inserting “as defined in*
16 *subsection (g)(3). The Secretary”;* and

17 *(iv) by striking “subregions.” in para-*
18 *graph (4), as redesignated, and inserting*
19 *“subregions where such facilities exist.”;*

20 *(B) by striking subsection (d) and inserting*
21 *the following:*

22 *“(d) LIMITATION.*—*Support for an individual project*
23 *under this section may not exceed \$200,000 per annum.”;*

24 *(C) in subsection (e)(1)—*

1 (i) by striking “a grant” and inserting
2 “funds”; and

3 (II) by inserting “Federal” after
4 “such”; and

5 (D) in subsection (g) by redesignating para-
6 graph (2) as paragraph (3) and inserting after
7 paragraph (1) the following:

8 “(2) *EMERGENCY ASSISTANCE*.—The term ‘emer-
9 gency assistance’ means assistance provided for a
10 stranding event—

11 “(A) that—

12 “(i) is not an unusual mortality event
13 as defined in section 409(6);

14 “(ii) leads to an immediate increase in
15 required costs for stranding response, recov-
16 ery, or rehabilitation in excess of regularly
17 scheduled costs;

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

19 “(iv) may involve out-of-habitat ani-
20 mals; or

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

23 (4) *CONTRIBUTIONS*.—Section 408 of such Act
24 (16 U.S.C. 1421f-1) is amended by adding at the end
25 the following:

1 “(i) *CONTRIBUTIONS.*—*For purposes of carrying out*
2 *this section, the Secretary may solicit, accept, receive, hold,*
3 *administer, and use gifts, devises, and bequests without any*
4 *further approval or administrative action.*”.

5 (5) *CONFORMING AMENDMENT.*—*The section*
6 *heading for section 408 is amended to read as follows:*

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

9 (f) *AUTHORIZATION OF APPROPRIATIONS FOR MARINE*
10 *MAMMAL UNUSUAL MORTALITY EVENT FUND.*—*Section*
11 *409(3) of such Act (16 U.S.C. 1421g(3)) is amended by*
12 *striking “fiscal year 1993.” and inserting “each of fiscal*
13 *years 2007 through 2010.”.*

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

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