

  
(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Marine Mammal Protection Act of 1972 to direct the Secretary of Commerce to establish a climate impact management plan for the conservation of certain marine mammal species, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Ms. BROWNLEY introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Marine Mammal Protection Act of 1972 to direct the Secretary of Commerce to establish a climate impact management plan for the conservation of certain marine mammal species, 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 Cli-  
5 mate Change Protection Act”.

1 **SEC. 2. CONSERVATION OF MARINE MAMMALS ADVERSELY**  
2 **AFFECTED BY CLIMATE CHANGE.**

3 (a) IN GENERAL.—The Marine Mammal Protection  
4 Act of 1972 (16 U.S.C. 1361 et seq.) is amended by in-  
5 serting after section 120 the following:

6 **“SEC. 121. CONSERVATION OF MARINE MAMMALS AD-**  
7 **VERSELY AFFECTED BY CLIMATE CHANGE.**

8 “(a) CLIMATE IMPACT MANAGEMENT PLANS.—

9 “(1) Within 24 months after the date of enact-  
10 ment of this section, the Secretary, in consultation  
11 with the Marine Mammal Commission, shall publish  
12 in the Federal Register, after notice and opportunity  
13 for public comment, a list of those marine mammal  
14 species and population stocks in waters under the  
15 jurisdiction of the United States for which climate  
16 change, alone or in combination or interaction with  
17 other factors, is more likely than not to result in a  
18 decline in population abundance, of impeding popu-  
19 lation recovery, or of reducing carrying capacity.  
20 The list shall identify—

21 “(A) any species or population stock for  
22 which such impacts are likely to occur within  
23 20 years; and

24 “(B) any species or population stock listed  
25 as a threatened species or endangered species  
26 under the Endangered Species Act of 1973 (16

1 U.S.C. 1531 et seq.) for which such impacts  
2 have more than a remote possibility of occur-  
3 ring within 100 years.

4 “(2)(A) The Secretary, in consultation with the  
5 Marine Mammal Commission, shall review the list  
6 adopted pursuant to paragraph (1) at least once  
7 every 5 years, or more frequently if significant new  
8 information becomes available, and, after notice and  
9 opportunity for public comment, shall publish a re-  
10 vised list in the Federal Register.

11 “(B) Within 12 months after receiving the peti-  
12 tion of an interested person under section 553(e) of  
13 title 5, United States Code, to add a marine mam-  
14 mal species or population stock to the list published  
15 under paragraph (1), the Secretary, in consultation  
16 with the Marine Mammal Commission and after no-  
17 tice and opportunity for public comment, shall pub-  
18 lish in the Federal Register its finding of whether  
19 the petitioned action is warranted. If the petitioned  
20 action is deemed warranted, the Secretary shall pub-  
21 lish at the same time the revision adding such spe-  
22 cies or population stock.

23 “(3) The list published under paragraph (1),  
24 and any revisions thereto made in accordance with  
25 paragraph (2), shall include a determination of

1       whether a climate impact management plan will pro-  
2       mote the conservation of species or stocks listed pur-  
3       suant to paragraph (1).

4               “(4)(A)(i) The Secretary shall publish in the  
5       Federal Register a draft climate impact management  
6       plan for each marine mammal species or population  
7       stock—

8                               “(I) listed under paragraph  
9                               (1)(A), within 18 months after  
10                              the listing; and

11                             “(II) listed under paragraph  
12                             (1)(B), within 30 months after  
13                             the listing.

14               “(ii) Each draft climate impact management  
15       plan shall be developed in consultation with the Ma-  
16       rine Mammal Commission and, as appropriate, other  
17       Federal agencies, and shall be made available for  
18       public review and comment for a period not to ex-  
19       ceed 90 days.

20               “(iii) No later than 120 days after the close of  
21       the comment period required under clause (ii), the  
22       Secretary shall issue a final climate impact manage-  
23       ment plan and implementing regulations that are  
24       consistent with the other provisions of this section  
25       and, to the full extent available under the Sec-

1       retary’s authorities under this Act and other stat-  
2       utes, implement the conservation and management  
3       measures identified in the plan.

4               “(B) Each climate impact management plan  
5       under subparagraph (A) shall include a comprehen-  
6       sive strategy for conserving and recovering of such  
7       marine mammal stocks and species given the antici-  
8       pated direct and indirect effects of climate change  
9       and increasing resiliency in the species or population  
10      stock, and shall identify conservation and manage-  
11      ment measures to—

12               “(i) conserve and recover such species and  
13      population stocks given the anticipated adverse  
14      effects of climate change on such species and  
15      population stocks and their prey;

16               “(ii) monitor, reduce, and prevent inter-  
17      actions with fisheries and other human activi-  
18      ties that may occur as a result of changes in  
19      marine mammal distribution or other indirect  
20      effects of climate change;

21               “(iii) increase resiliency by materially re-  
22      ducing other human impacts on such species  
23      and population stocks, including but not limited  
24      to the reduction of incidental taking of marine  
25      mammals and of the degradation of the habitat

1 of such species and population stocks, and by  
2 managing prey species to improve the avail-  
3 ability of prey to such species and population  
4 stocks; and

5 “(iv) take any other action as may be nec-  
6 essary to implement the strategy set forth in  
7 the climate impact management plan.

8 “(C) Each climate impact management plan  
9 under subparagraph (A) shall include objective,  
10 measurable criteria for evaluating the effectiveness  
11 and sufficiency of such measures to meet the pur-  
12 poses of this Act.

13 “(D)(i) All other Federal agencies shall, in con-  
14 sultation with and with the assistance of the Sec-  
15 retary, utilize their authorities in furtherance of the  
16 strategy and conservation and management meas-  
17 ures set forth in climate impact management plans  
18 developed under this subsection and ensure that  
19 their actions do not conflict or interfere with the ob-  
20 jectives of such climate impact management plans.  
21 The Secretary shall consult with the Marine Mam-  
22 mal Commission and, as may be warranted, other  
23 agencies in the implementation of such climate im-  
24 pact management plans.

1           “(ii) With respect to any Federal agency action  
2           authorized, funded, or undertaken by such agency  
3           that, in the view of the Secretary or of the agency,  
4           may conflict or interfere with the objectives of such  
5           climate impact management plans, such agency  
6           shall, in consultation with the Secretary, ensure that  
7           such action is consistent with the climate impact  
8           management plan. To the extent that it is impossible  
9           for such action to be consistent with the climate im-  
10          pact management plan, the Secretary shall require  
11          measures to minimize any such conflicts, in addition  
12          to any other measures required by law, and the  
13          agency shall adopt such measures required by the  
14          Secretary.

15           “(E) When appropriate, the Secretary may, and  
16           is encouraged to, integrate climate impact manage-  
17           ment plans into conservation plans adopted under  
18           section 115(b) or recovery plans adopted under sec-  
19           tion 4(f) of the Endangered Species Act of 1973 (16  
20           U.S.C. 1533(f)).

21           “(F) The Secretary shall review climate impact  
22           management plans and implementing regulations at  
23           least once every 5 years, and shall revise and amend  
24           them as necessary to meet the goals and require-  
25           ments of this section. Any changes shall be subject

1 to the procedures and requirements applicable to the  
2 adoption of the initial climate impact management  
3 plans and regulations.

4 “(5) The Secretary shall report to Congress 4  
5 years after the date of enactment of this section,  
6 and every 2 years thereafter, on—

7 “(A) actions taken to implement this sec-  
8 tion;

9 “(B) any backlog in meeting the schedule  
10 set forth in this subsection for adopting, review-  
11 ing, and implementing climate impact manage-  
12 ment plans, or additional resources necessary to  
13 address any such backlog; and

14 “(C) the effectiveness of implementation  
15 and sufficiency of the measures adopted in cli-  
16 mate impact management plans, and any rec-  
17 ommendations for improving the process or the  
18 applicable legislation.

19 “(b) MONITORING OF CLIMATE IMPACTS.—The Sec-  
20 retary shall establish a program within the National Oce-  
21 anic and Atmospheric Administration to monitor the ad-  
22 verse impacts of climate change on marine mammals. The  
23 purposes of the monitoring program shall be to—



1           “(1) improve models of projected future  
2 changes in marine mammal distribution and den-  
3 sities resulting from climate change;

4           “(2) identify and monitor interactions with fish-  
5 eries and other human activities that may occur as  
6 a result of changes in marine mammal distribution  
7 or other effects of climate change;

8           “(3) monitor the abundance of species and pop-  
9 ulation stocks, to an extent sufficient to detect a 20  
10 percent population decline over 20 years;

11           “(4) improve understanding of the impacts of  
12 climate change on marine mammal species and pop-  
13 ulation stocks; and

14           “(5) assess the direct and indirect contributions  
15 of marine mammals to carbon reduction, including  
16 through carbon sequestration and nutrient cycling.

17           “(c) PROMULGATION OF REGULATIONS FOR LISTING  
18 MARINE MAMMALS ADVERSELY IMPACTED BY CLIMATE  
19 CHANGE.—The Secretary shall, within 120 days after the  
20 date of the enactment of this section—

21           “(1) publish in the Federal Register for public  
22 comment, for a period of not less than 60 days, reg-  
23 ulations for listing marine mammal species and pop-  
24 ulation stocks adversely impacted by climate change,  
25 alone or in combination or interaction with other

1 factors, as described in paragraphs (1) and (2) of  
2 subsection (a), taking into account both quantitative  
3 and qualitative indicators of adverse impacts of cli-  
4 mate change and human activities on such species  
5 and stocks, including—

6 “(A) direct and indirect mortality and seri-  
7 ous injury;

8 “(B) loss or degradation of habitat;

9 “(C) changes in the distribution or avail-  
10 ability of prey;

11 “(D) changes in the distribution of marine  
12 mammal species and population stocks;

13 “(E) decreased genetic diversity or repro-  
14 ductive success;

15 “(F) increased susceptibility to pathogens;  
16 and

17 “(G) increased likelihood of interactions  
18 with fisheries and other human activities; and

19 “(2) not later than 90 days after the close of  
20 the period for such public comment, publish in the  
21 Federal Register final regulations for listing marine  
22 mammals as required by paragraphs (1) and (2) of  
23 subsection (a), to be reviewed at least once every  
24 three years.

1       “(d) LACK OF QUANTITATIVE INFORMATION.—The  
2 lack of quantitative information shall not be a basis for  
3 a determination that a species or population stock is not  
4 adversely impacted by climate change, alone or in com-  
5 bination or interaction with other factors, as described in  
6 paragraphs (1) and (2) of subsection (a).

7       “(e) ESTIMATION OF POTENTIAL BIOLOGICAL RE-  
8 MOVAL.—

9           “(1) The Secretary, in estimating the potential  
10 biological removal level in stock assessments pre-  
11 pared in accordance with section 117, shall consider  
12 the adverse impacts of climate change in deter-  
13 mining the recovery factor applied to each stock.

14           “(2) The Secretary, in preparing stock assess-  
15 ments in accordance with section 117, shall reexam-  
16 ine the stock definition and geographic range of ma-  
17 rine mammal species and population stocks to iden-  
18 tify climate-related changes in spatial distribution  
19 and stock definition and to identify how such  
20 changes may affect human impacts to the species.

21       “(f) AUTHORITY TO ENTER INTO AGREEMENTS.—  
22 The Secretary shall—

23           “(1) periodically review the status of agree-  
24 ments with foreign governments under section  
25 108(a) concerning the management of transbound-

1       ary marine mammal species and population stocks,  
2       and their prey species, that are or may be affected  
3       by climate change; and

4               “(2) through the Secretary of State, initiate the  
5       amendment of any such agreement, or negotiations  
6       for the development of bilateral or multinational  
7       agreements, consistent with the goals and policies of  
8       this section.

9       “(g) CONSTRUCTION.—This section shall not be con-  
10       strued to limit or restrict any other responsibility of the  
11       Secretary or of any other person under this Act or any  
12       other statute.

13       “(h) AUTHORIZATION OF APPROPRIATIONS.—

14               “(1) There is authorized to be appropriated to  
15       the Administrator of the National Oceanic and At-  
16       mospheric Administration to carry out this section  
17       \$3,000,000 for each of fiscal years 2024 through  
18       2028.

19               “(2) There is authorized to be appropriated to  
20       the Secretary of the Interior to carry out this section  
21       \$2,000,000 for each of fiscal years 2024 through  
22       2028.

23               “(3) There is authorized to be appropriated to  
24       the Marine Mammal Commission to carry out this

1 section \$1,000,000 for each of fiscal years 2024  
2 through 2028.”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
4 in the first section of such Act is amended by inserting  
5 after the item relating to section 120 the following:

“Sec. 121. Conservation of marine mammals adversely affected by climate  
change.”.