

Draft MMPA Reauthorization Bill

Eviscerating protection for some of America's most loved species

Background

In 1972, Congress responded to overwhelming public support for marine mammals by adopting the Marine Mammal Protection Act (MMPA). Since that time, this landmark law has protected the country's dolphins, whales, manatees, seals, sea otters, polar bears, and other much-loved species from harm. Not a single species has disappeared from American waters even as our use of the ocean has increased. And protecting the nation's marine mammals has helped keep our coasts and oceans productive and helped create the largest wildlife-watching industry on the planet.

The draft reauthorization bill would take a sledgehammer to the MMPA. It would set impossibly high hurdles for conservation action and gut protections across the board for our most iconic species. The result: many more of America's whales, dolphins, and other marine mammals would be needlessly killed and injured; populations would decline; and incentives for improving measures to reduce entanglements, vessel strikes, and disturbance would fall away. **It is not hyperbole to say that this radical, anti-science, pro-industry bill would destroy marine mammal conservation in the United States.**

What would the draft reauthorization bill do?

- **Downgrade the statute's mandate from healthy populations to mere survival.** The MMPA's forward-thinking vision recognizes that marine mammals play a significant role in healthy ocean ecosystems and aims to prevent their further decline and to recover them to their optimum sustainable population. The bill would downgrade this mandate to "continued survival" of a population or stock, setting the lowest possible conservation bar short of extinction. It would drive population decline and ultimately cause more marine mammals to be listed under the Endangered Species Act.
- **Allow harm to huge numbers of important species.** The bill would turn the MMPA's provisions for minimizing incidental harm into an empty shell. It would gravely weaken the legal standards for authorizing activities that kill and injure marine mammals and disrupt their vital functions; it would prevent the regulatory agencies from establishing almost any kind of mitigation; and it would require automatic authorizations if the agency missed a series of artificially tight deadlines, even as the administration is cutting budgets and staff. These proposed changes would pave the way for oil and gas companies seeking to expand seismic testing and offshore oil drilling to the Southeast and other parts of the country. And they would undermine conservation of beloved species from the Florida manatee to Alaska's polar bears to the Northwest's resident orcas.
- **Undermine the limit on marine mammal death.** The MMPA has kept populations sustainable for more than three decades by limiting the number of marine mammals that can be killed, or "removed," by human activity each year. Yet the bill would destroy this core safeguard. It would prevent agencies from considering a population's recovery potential when setting a biological removal limit; and it would require them to obtain "systematic and complete abundance survey data"—which are not available for many populations and may be impossible to acquire—to establish any limit at all on marine mammal loss. On top of this, it would count only documented mortalities towards the removal

limit, even where sound, peer-reviewed science demonstrates that most deaths go undetected or unreported. Our chief means of controlling marine mammal loss would be rendered a nullity.

- **Eliminate protections for imperiled marine mammals killed in commercial fisheries.** In gutting the safeguard that limits marine mammal deaths, the bill would undermine the process, known as “take reduction planning,” that protects endangered, threatened, and depleted marine mammal populations from bycatch in commercial fisheries. Currently, these plans, which are developed with input from fishermen and other stakeholders, aim to reduce marine mammal deaths in those fisheries to sustainable levels. Additionally, the bill would eliminate the MMPA’s longstanding goal of reducing mortality in commercial fisheries to near zero over time. Collectively, these amendments would actively harm some of the country’s most spectacular wildlife populations, including humpback whales off the West Coast, harbor porpoises in the Northeast and off Alaska, bottlenose dolphins in the Southeast, and false killer whales off Hawai‘i. And they would spell doom for North Atlantic right whales, as entanglements alone are driving the species towards extinction.
- **Hamstring the ability to issue regulations.** The bill imposes significant limits on the authority to issue “necessary and appropriate” regulations for protecting marine mammals and carrying out the MMPA’s purposes.
- **Drastically undermine marine mammal conservation worldwide.** The MMPA requires the Secretary of the Treasury to ban the import of commercial fish caught in ways that kill or seriously injure marine mammals in excess of U.S. standards. By gutting the Act’s standards for domestic fisheries, the bill would allow fish and fish products from nations whose fleets indiscriminately kill marine mammals into the American supply chain—and undermine marine mammal conservation worldwide.
- **Fatally delay action to save North Atlantic right whales.** This bill specifically delays—for an additional ten years—any further measures to reduce the threat of entanglements to the fewer than 400 remaining North Atlantic right whales. Incidental entanglements in fishing gear are one of the two biggest threats to the survival of the species. Further delays in reducing these impacts will drive the whale closer to extinction.

Contact Information

Valerie Cleland, Senior Ocean Advocate, NRDC: vcleland@nrdc.org
Ericca Gandolfo, Senior Policy Associate, Animal Welfare Institute, ericca@awionline.org
Daniel Moss, Senior Government Relations Rep., Defenders of Wildlife: dmooss@defenders.org
CT Harry, Senior Ocean Policy Analyst, EIA: ctharry@eia-global.org
Taylor Mann, Federal Policy Manager, Oceana: tmann@oceana.org
Jennifer Place, Vice President, Tai Ginsberg & Associates: jplace@tgassoc.com
Kristin Butler, Earthjustice: kbutler@earthjustice.org

