



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

August 5, 2009

**S. 859
Marine Mammal Rescue Assistance Amendments of 2009**

*As ordered reported by the Senate Committee on Commerce, Science,
and Transportation on May 20, 2009*

SUMMARY

S. 859 would amend the Marine Mammal Protection Act of 1972 and would reauthorize funding for programs to protect and rescue marine mammals such as whales that become stranded or entangled. Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 859 would increase discretionary spending by \$43 million over the 2010-2014 period.

Enacting S. 859 also contains several provisions that could increase direct spending, but CBO estimates that any increases would be minimal.

S. 859 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 859 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By Fiscal Year, in Millions of Dollars					2010-2014
	2010	2011	2012	2013	2014	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ^a						
Authorization Level	9	9	9	9	9	45
Estimated Outlays	7	8	9	9	9	43

a. Enacting S. 859 also would result in changes in direct spending, but CBO estimates that the net budgetary effect of such changes would be less than \$500,000 a year.

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 859 will be enacted near the end of fiscal year 2009 and that the authorized amounts will be provided as specified in the bill. Estimated outlays are based on historical spending patterns for these and similar programs.

Spending Subject to Appropriation

S. 859 would authorize appropriations totaling of \$9 million for each of fiscal years 2010 through 2014, including:

- \$7 million for the John H. Prescott Marine Mammal Rescue Assistance Program, of which National Oceanic and Atmospheric Administration (NOAA) would receive \$6 million and the U.S. Fish and Wildlife Service (USFWS) would receive \$1 million,
- \$0.5 million for the Marine Mammal Unusual Mortality Event Fund (administered by NOAA),
- \$0.5 million to carry out other activities under the 1972 act, and
- \$1 million for a new John H. Prescott Marine Mammal Rescue and Rapid Response Fund (rapid response fund), consisting of \$500,000 a year authorized to be appropriated directly to the fund as well as up to \$500,000 that NOAA could deposit to it from other appropriations. (The new fund also could receive private donations and interest credited to the fund on its unspent balances, both of which would be available without further appropriation.)

Assuming appropriation of the authorized amounts, CBO estimates that NOAA and the USFWS would spend a total of \$43 million over the 2010-2014 period, primarily for grants to nonfederal groups that rescue marine mammals.

Direct Spending

Several provisions of S. 859 could increase direct spending, but CBO estimates that the net budgetary effect of those provisions would be minimal. Provisions that may affect direct spending are discussed below.

Rapid Response Fund. The bill would allow NOAA to collect and spend private donations and earn interest on balances in the rapid response fund. Collecting and spending private donations would increase offsetting receipts and associated direct spending; the net effect of such transactions would be minimal in most years. Spending any interest credited to the funds would result in additional direct spending, but we estimate that such spending also would be negligible.

Unusual Mortality Event Funding. S. 859 would authorize NOAA to make advance, partial, or progress payments under contracts executed under this program. The agency's use of this authority could cause it to obligate funds in advance of appropriations, resulting in new direct spending. Because the number of unusual mortality events and the likely level of federal funding for them are small, CBO estimates that any outlays under such contracts would be less than \$500,000 annually.

Federal Tort Claims Act. The bill would provide that individuals who rescue marine mammals from entanglements (from fishing nets, for example) would be considered federal employees if their actions result in claims for damages under the Federal Tort Claims Act. Because such claims could be paid from the permanent, indefinite Judgment Fund, awards against the federal government could increase direct spending. Based on information provided by NOAA on the likely number of cases, however, CBO estimates that any increase in spending would be minimal.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 859 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

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