

Fact Sheet on H.R. 3133

Evisceration of important protections for marine mammals

Bill Summary

H.R. 3133, the Streamlining Environmental Approvals (SEA Act), would gut core provisions of the Marine Mammal Protection Act (MMPA) to fast-track seismic airgun surveys and other activities in the ocean that can harm marine mammals. The bill would gravely weaken the legal standards for issuing Incidental Harassment Authorizations (IHAs), prevent the regulatory agency from requiring almost any kind of mitigation, and require automatic approval of IHAs if the agency misses a series of tight deadlines. Since “harassment” is defined in the MMPA to include permanent injury and disruption of vital functions, the negative consequences of these changes for marine mammal conservation would be profound.

The bill clearly reflects the wish list of companies seeking to conduct seismic air gun surveys for oil and gas deposits in the Atlantic. It favors the oil and gas industry, and other industrial activities in the ocean, over protecting whales, dolphins, and other marine mammals. Fishing activities are not affected by this bill.

What would H.R. 3133 do?

- **Allow harm to huge numbers of whales and dolphins.** The bill would remove important safeguards, including the requirement that harassment of marine mammals is limited to “small numbers” of specific species or population stocks. This expansion removes an important check on NOAA’s authority to issue IHAs, which was put in place to account for the gaps in scientific data on some marine mammal stocks. It would also drop the condition that the activities allowed by the permits have the “least practicable impact” on marine mammals—putting these animals at much greater risk.
- **Allow harm to marine mammals in much larger areas of the ocean.** H.R. 3133 would delete the requirement that IHAs can only be issued within a “specific geographic region.” The current requirement limiting permits to specific geographic regions allows for better application of the best available science and tailoring of measures to mitigate the impacts of the activity allowed by the permit.
- **Permit harassment without mitigation.** The bill would sharply curtail NOAA’s authority to require mitigation measures to reduce the impacts of activities that harass marine mammals.
- **Cover up cumulative impacts.** The bill would limit any requirements for monitoring of the impacts on marine mammals to the period in which the activity—such as a seismic airgun survey—is taking place. The bill would not allow the agency to require monitoring of long-term or cumulative impacts after the activity has ended, thereby missing significant, but not immediately evident, effects on marine mammals.
- **Rush permitting process/automatically approve permits.** H.R. 3133 would lay out a highly unrealistic timeline for agency scientists to review permit applications, determine whether sufficient information has been submitted, and evaluate the impacts of the proposed activity on marine mammals. For example, the bill would give agency scientists only *15 calendar days* to determine whether the information in the lengthy and complex permit application is sufficient—and would allow only one request for additional information. After that, the application would be deemed complete, and scientists would have only 120 days to analyze it. If the review is not completed in 120 days, the Incidental Harassment Authorization would automatically be granted, regardless of the potential harm to marine mammals, and without any of the mitigation that may be necessary to eliminate or minimize that harm.

- **Automatically extend permits.** For an existing IHA, which has a one-year term, the bill would require the agency to grant a one-year extension of the permit, and would give agency scientists only 14 days to determine whether an extension is appropriate. The agency would only be able to withhold the extension if there has been a substantial change in the activity for which the permit was originally granted, or in the status of the affected marine mammal species or stock.
- **Create a dangerous loophole in Endangered Species Act protections.** H.R. 3133 would exempt IHA permit holders from complying with the Endangered Species Act's prohibition on the take of threatened and endangered species. It would substitute the bill's abbreviated approval process for the obligation the Endangered Species Act puts on federal agencies to ensure their actions are not likely to jeopardize the survival and recovery of endangered and threatened species.

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