

**AMENDMENT TO H.R. 4310, AS REPORTED
OFFERED BY MR. GALLEGLY OF CALIFORNIA**

In title III, at the end of subtitle B add the following:

1 **SEC. ____ . SOUTHERN SEA OTTER MILITARY READINESS**
2 **AREAS.**

3 (a) ESTABLISHMENT OF THE SOUTHERN SEA OTTER
4 MILITARY READINESS AREAS.—Chapter 136 of title 10,
5 United States Code, is amended by adding at the end the
6 following new section:

7 **“§ 2283. Establishment of the Southern Sea Otter**
8 **Military Readiness Areas**

9 “(a) ESTABLISHMENT.—The Secretary of Defense
10 shall establish areas, to be known as ‘Southern Sea Otter
11 Military Readiness Areas’, for national defense purposes.
12 Such areas shall include each of the following:

13 “(1) The area that includes Naval Base Ven-
14 tura County, San Nicolas Island, and Begg Rock
15 and the adjacent and surrounding waters within the
16 following coordinates:

17 “N. Latitude/W. Longitude

18 “33°27.8′/119°34.3′

19 “33°20.5′/119°15.5′

1 “33°13.5’/119°11.8’

2 “33°06.5’/119°15.3’

3 “33°02.8’/119°26.8’

4 “33°08.8’/119°46.3’

5 “33°17.2’/119°56.9’

6 “33°30.9’/119°54.2’.

7 “(2) The area that includes Naval Base Coro-
8 nado, San Clemente Island and the adjacent and
9 surrounding waters running parallel to shore to 3
10 nautical miles from the high tide line, as designated
11 by part 165 of title 33, Code of Federal Regulations,
12 on May 20, 2010, as the San Clemente Island 3NM
13 Safety Zone.

14 “(3) The area that includes Marine Corps Base
15 Camp Pendleton and the adjacent waters within the
16 following coordinates:

17 “Latitude/W. Longitude

18 “33°26.6’/117°38.9’

19 “33°21.3’/117°45.8’

20 “32°56.2’/117°39.7’

21 “33°6.5’/117°28.5’

22 “33°10.2’/117°23.7’

23 “33°11.8’/117°23.2’

24 “33°26.6’/117°38.9’.

1 “(b) ACTIVITIES WITHIN THE SOUTHERN SEA
2 OTTER MILITARY READINESS AREAS.—

3 “(1) INCIDENTAL TAKINGS UNDER ENDAN-
4 GERED SPECIES ACT OF 1973.—Sections 4 and 9 of
5 the Endangered Species Act of 1973 (16 U.S.C.
6 1533, 1538) shall not apply with respect to the inci-
7 dental taking of any southern sea otter in the South-
8 ern Sea Otter Military Readiness Areas in the
9 course of conducting a military readiness activity.

10 “(2) INCIDENTAL TAKINGS UNDER MARINE
11 MAMMAL PROTECTION ACT OF 1972.—Sections 101
12 and 102 of the Marine Mammal Protection Act of
13 1972 (16 U.S.C. 1371, 1372) shall not apply with
14 respect to the incidental taking of any southern sea
15 otter in the Southern Sea Otter Military Readiness
16 Areas in the course of conducting military readiness
17 activities.

18 “(3) TREATMENT AS SPECIES PROPOSED TO BE
19 LISTED.—For purposes of any military readiness ac-
20 tivity, any southern sea otter while within the South-
21 ern Sea Otter Military Readiness Areas shall be
22 treated for the purposes of section 7 of the Endan-
23 gered Species Act of 1973 (16 U.S.C. 1536) as a
24 member of a species that is proposed to be listed as
25 an endangered species or a threatened species under

1 section 4 of the Endangered Species Act of 1973 (16
2 U.S.C. 1533).

3 “(c) REMOVAL.—Nothing in this section or any other
4 Federal law shall be construed to require the removal of
5 any southern sea otter located within the Southern Sea
6 Otter Military Readiness Areas as of the date of the enact-
7 ment of this section or thereafter.

8 “(d) REVISION OR TERMINATION OF EXCEPTIONS.—
9 The Secretary of the Interior may revise or terminate the
10 application of subsection (b) if the Secretary of the Inte-
11 rior, in consultation with, and with the concurrence of, the
12 Secretary of the Navy, determines that military activities
13 occurring in the Southern Sea Otter Military Readiness
14 Areas are substantially impeding southern sea otter con-
15 servation or the return of southern sea otters to optimum
16 sustainable population levels.

17 “(e) MONITORING.—

18 “(1) IN GENERAL.—The Secretary of the Navy,
19 in consultation and in cooperation with the Sec-
20 retary of the Interior, shall monitor the Southern
21 Sea Otter Military Readiness Areas not less often
22 than every year to evaluate the status of the south-
23 ern sea otter population.

24 “(2) REPORTS.—Within 18 months after the ef-
25 fective date of this section and every three years

1 thereafter, the Secretaries of the Navy and the Inte-
2 rior shall jointly report to Congress and the public
3 on monitoring undertaken pursuant to paragraph
4 (1).

5 “(f) DEFINITIONS.—In this section:

6 “(1) The term ‘incidental taking’ means any
7 take of a southern sea otter that is incidental to,
8 and not the purpose of, the carrying out of an other-
9 wise lawful activity.

10 “(2) The term ‘optimum sustainable population’
11 means, with respect to any population stock, the
12 number of animals that will result in the maximum
13 productivity of the population or the species, keeping
14 in mind the carrying capacity of the habitat and the
15 health of the ecosystem of which they form a con-
16 stituent element.

17 “(3) The term ‘southern sea otter’ means any
18 member of the subspecies *Enhydra lutris nereis*.

19 “(4) The term ‘take’—

20 “(A) when used in reference to activities
21 subject to regulation by the Endangered Species
22 Act of 1973 (16 U.S.C. 1531–1544) shall have
23 the meaning given such term in that Act; and

24 “(B) when used in reference to activities
25 subject to regulation by the Marine Mammal

1 Protection Act of 1972 (16 U.S.C. 1361–
2 1423h), shall have the meaning given such term
3 in that Act.

4 “(5) The term ‘military readiness activity’ has
5 the meaning given that term in section 315(f) of the
6 Bob Stump National Defense Authorization Act for
7 Fiscal Year 2003 (Public Law 107–314; 16 U.S.C.
8 703 note), and includes all training and operations
9 of the Armed Forces that relate to combat, and the
10 adequate and realistic testing of military equipment,
11 vehicles, weapons, and sensors for proper operation
12 and suitability for combat use.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of such chapter is amended by adding
15 at the end the following:

 “2283. Establishment of the Southern Sea Otter Military Readiness Areas.”.

16 (c) CONSERVATION AND MANAGEMENT ACTIONS.—
17 Section 1 of Public Law 99–625 (16 U.S.C. 1536 note)
18 is amended by adding at the end the following:

19 “(g) CONSERVATION AND MANAGEMENT ACTIONS.—
20 If the Secretary issues a final rule ending the management
21 plan authorized under subsection (b) through the termi-
22 nation of the regulations implementing such plan—

23 “(1) the Secretary, in planning and imple-
24 menting recovery and conservation measures under
25 the Act to allow for the expansion of the range of

1 the population of the sea otter, shall coordinate and
2 cooperate with—

3 “(A) the Secretary of the Navy;

4 “(B) the Secretary of Commerce regarding
5 recovery efforts for species listed under the Act;
6 and

7 “(C) the State of California to assist the
8 State in continuing viable commercial harvest of
9 State fisheries; and

10 “(2) interaction with sea otters in the course of
11 engaging in fishing in any State fishery south of
12 Point Conception, California, under an authorization
13 issued by the State of California shall not be treated
14 as a violation of section 9 of the Act for incidental
15 take or of the Marine Mammal Protection Act of
16 1972.”.

