

115TH CONGRESS  
2D SESSION

# H. R. 2083

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IN THE SENATE OF THE UNITED STATES

JUNE 27, 2018

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

To allow for the taking of pinnipeds on the Columbia River  
and its tributaries to protect endangered and threatened  
species of salmon and other nonlisted fish species.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Endangered Salmon  
3 and Fisheries Predation Prevention Act”.

4 **SEC. 2. SENSE OF CONGRESS.**

5 It is the sense of the Congress that—

6 (1) prevention of predation by sea lions, recov-  
7 ery of salmonid stocks listed under the Endangered  
8 Species Act of 1973 (16 U.S.C. 1531 et seq.), and  
9 prevention of the future listings of fish stocks in the  
10 Columbia River under such Act are a vital priority;  
11 and

12 (2) the Federal Government should continue to  
13 fund lethal and nonlethal removal of sea lions as  
14 well as deterrence measures for preventing such pre-  
15 dation.

16 **SEC. 3. TAKING OF SEA LIONS ON THE COLUMBIA RIVER  
17 AND ITS TRIBUTARIES TO PROTECT ENDAN-  
18 GERED AND THREATENED SPECIES OF SALM-  
19 ON AND OTHER NONLISTED FISH SPECIES.**

20 Section 120(f) of the Marine Mammal Protection Act  
21 of 1972 (16 U.S.C. 1389(f)) is amended to read as fol-  
22 lows:

23 “(f) TEMPORARY MARINE MAMMAL REMOVAL AU-  
24 THORITY ON THE WATERS OF THE COLUMBIA RIVER AND  
25 ITS TRIBUTARIES.—

1           “(1) REMOVAL AUTHORITY.—Notwithstanding  
2 any other provision of this Act, the Secretary may  
3 issue a permit to an eligible entity to authorize the  
4 intentional lethal taking on the waters of the Colum-  
5 bia River and its tributaries of individually identifi-  
6 able sea lions that are part of a population or stock  
7 that is not categorized under this Act as depleted or  
8 strategic for the purpose of protecting—

9           “(A) species of salmon, steelhead, or  
10 eulachon that are listed as endangered species  
11 or threatened species under the Endangered  
12 Species Act of 1973 (16 U.S.C. 1531 et seq.);  
13 and

14           “(B) species of lamprey or sturgeon that  
15 are not listed as endangered or threatened but  
16 are listed as a species of concern.

17           “(2) PERMIT PROCESS.—

18           “(A) IN GENERAL.—An eligible entity may  
19 apply to the Secretary for a permit under this  
20 subsection.

21           “(B) DEADLINE FOR CONSIDERATION OF  
22 APPLICATION.—The timelines and procedures  
23 described in subsection (c) shall apply to appli-  
24 cations for permits under this subsection in the

1 same manner such timelines apply to applica-  
2 tions under subsection (b).

3 “(C) COORDINATION.—The Secretary shall  
4 establish procedures for coordination among eli-  
5 gible entities, including application procedures  
6 and timelines, geographic and species-specific  
7 considerations, and monitoring and periodic re-  
8 view.

9 “(D) DURATION OF PERMIT.—A permit  
10 under this subsection shall be effective for not  
11 more than 5 years and may be renewed by the  
12 Secretary.

13 “(3) LIMITATIONS ON ANNUAL TAKINGS.—The  
14 process for determining limitations on annual take  
15 of sea lions will follow the process established in sub-  
16 section (c) and the cumulative number of sea lions  
17 authorized to be taken each year under all permits  
18 in effect under this subsection shall not exceed 10  
19 percent of the annual potential biological removal  
20 level for sea lions.

21 “(4) QUALIFIED INDIVIDUALS.—Intentional le-  
22 thal takings under this subsection shall be humane  
23 and shall be implemented by agencies or qualified in-  
24 dividuals described in subsection (c)(4), or by indi-

1       viduals employed by the eligible entities described in  
2       paragraph (6).

3           “(5) SUSPENSION OF PERMITTING AUTHOR-  
4       ITY.—If, 5 years after the date of the enactment of  
5       the Endangered Salmon and Fisheries Predation  
6       Prevention Act, the Secretary, after consulting with  
7       State and tribal fishery managers, determines that  
8       lethal removal authority is no longer necessary to  
9       protect salmonid and other fish species from sea lion  
10      predation, the Secretary shall suspend the issuance  
11      of permits under this subsection.

12           “(6) ELIGIBLE ENTITY DEFINED.—

13           “(A) IN GENERAL.—

14           “(i) DEFINITION.—In this subsection,  
15       subject to subparagraph (B), the term ‘eli-  
16       gible entity’ means—

17           “(I) with respect to removal in  
18       the mainstem of the Columbia River  
19       and its tributaries, the State of Wash-  
20       ington, the State of Oregon, and the  
21       State of Idaho;

22           “(II) with respect to removal in  
23       the mainstem of the Columbia River  
24       and its tributaries, the Nez Perce  
25       Tribe, the Confederated Tribes of the

1 Umatilla Indian Reservation, the Con-  
2 federated Tribes of the Warm Springs  
3 Reservation of Oregon, the Confed-  
4 erated Tribes and Bands of the  
5 Yakama Nation, and the Columbia  
6 River Intertribal Fish Commission;  
7 and

8 “(ii) DELEGATION AUTHORITY.—The  
9 Secretary may allow an eligible entity de-  
10 scribed in clause (i)(I) or (i)(II) to delegate  
11 its authority under a permit under this  
12 subsection to any eligible entity described  
13 in clause (i)(I) or (i)(II).

14 “(B) ADDITIONAL ELIGIBILITY.—

15 “(i) IN GENERAL.—Subject to the ap-  
16 proval of the Secretary and in consultation  
17 with the Indian Tribes in subparagraph  
18 (A)(i)(II)—

19 “(I) the State of Washington  
20 may enter into a memorandum of un-  
21 derstanding with the Cowlitz Indian  
22 Tribe for deterrence and removal of  
23 sea lions on the Cowlitz River.

24 “(II) the State of Oregon may  
25 enter into a memorandum of under-

1 standing with the Confederated Tribes  
2 of the Grand Ronde Community of  
3 Oregon and the Confederated Tribes  
4 of Siletz Indians of Oregon for deter-  
5 rence and removal of sea lions on the  
6 Willamette River.

7 “(ii) CONSIDERATIONS.—In deter-  
8 mining eligibility under this subparagraph,  
9 the Secretary shall consider the capacity of  
10 each Indian tribe to manage wildlife to  
11 meet the requirements of this Act.

12 “(7) INDIVIDUAL EXCEPTION.—For purposes of  
13 this section, any sea lion located upstream of Colum-  
14 bia River river mile 112, or in any tributary to the  
15 Columbia River that includes spawning habitat of  
16 threatened or endangered salmon or steelhead is  
17 deemed to be individually identifiable.

18 “(8) SIGNIFICANT NEGATIVE IMPACT EXCEP-  
19 TION.—For purposes of this section, any sea lion lo-  
20 cated in the mainstem of the Columbia River up-  
21 stream of river mile 112, or in any tributary to the  
22 Columbia River that includes spawning habitat of  
23 threatened or endangered salmon or steelhead is  
24 deemed to be having a significant negative impact on

1 the decline or recovery of salmonid fishery stocks de-  
2 scribed in subsection (b)(1).

3 “(9) DEFINITION.—In this subsection, the term  
4 ‘Indian tribe’ has the meaning given such term in  
5 section 4 of the Indian Self-Determination and Edu-  
6 cation Assistance Act (25 U.S.C. 5304).”.

7 **SEC. 4. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-**  
8 **DIAN TRIBES.**

9 Nothing in this Act or the amendments made by this  
10 Act shall be construed to affect or modify any treaty or  
11 other right of an Indian Tribe (as defined in section 4  
12 of the Indian Self-Determination and Education Assist-  
13 ance Act (25 U.S.C. 5304)).

14 **SEC. 5. REPORT.**

15 Not later than 180 days after the date of the enact-  
16 ment of this Act, the Secretary of the Interior shall study  
17 and report to the Congress on the potential effects of the  
18 lethal taking of sea lions on the recovery of salmonid  
19 stocks in the waters of the Columbia River and the tribu-  
20 taries of the Columbia River.

Passed the House of Representatives June 26, 2018.

Attest:

KAREN L. HAAS,

*Clerk.*