

115TH CONGRESS
2D SESSION

S. 3315

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

IN THE SENATE OF THE UNITED STATES

JULY 31, 2018

Mr. MERKLEY (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Predation Reduction
5 of Salmon Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) prevention of predation by sea lions, recov-
9 ery of salmonid stocks listed under the Endangered

1 Species Act of 1973 (16 U.S.C. 1531 et seq.), and
2 prevention of the future listings of fish stocks in the
3 Columbia River under such Act are vital priorities;
4 and

5 (2) the Federal Government should continue to
6 fund lethal and nonlethal removal of sea lions as
7 well as measures for preventing such predation.

8 **SEC. 3. TAKING OF SEA LIONS ON THE COLUMBIA RIVER**
9 **AND ITS TRIBUTARIES TO PROTECT ENDAN-**
10 **GERED AND THREATENED SPECIES OF SALM-**
11 **ON AND OTHER NONLISTED FISH SPECIES.**

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

15 “(f) TEMPORARY MARINE MAMMAL REMOVAL AU-
16 THORITY ON THE WATERS OF THE COLUMBIA RIVER AND
17 ITS TRIBUTARIES.—

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

1 “(A) species of salmon, steelhead, or
2 eulachon that are listed as endangered species
3 or threatened species under the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.);
5 and

6 “(B) species of lamprey or sturgeon that
7 are not listed as endangered or threatened
8 under such Act but are listed as a species of
9 concern.

10 “(2) PERMIT PROCESS.—

11 “(A) IN GENERAL.—An eligible entity may
12 apply to the Secretary for a permit under this
13 subsection.

14 “(B) DEADLINE FOR CONSIDERATION OF
15 APPLICATION.—The timelines and procedures
16 described in subsection (c) shall apply to appli-
17 cations for permits under this subsection in the
18 same manner such timelines apply to applica-
19 tions under subsection (b).

20 “(C) COORDINATION.—The Secretary shall
21 establish procedures for coordination among eli-
22 gible entities, including issuance of permits and
23 permit requirements, application procedures
24 and timelines, geographic and species-specific

1 considerations, and monitoring and periodic re-
2 view.

3 “(D) DURATION OF PERMIT.—A permit
4 under this subsection shall be effective for a pe-
5 riod of not more than 5 years and may be re-
6 newed by the Secretary.

7 “(E) COORDINATION WITH OTHER
8 TRIBES.—To the extent practicable, prior to
9 issuing a permit under this subsection, the Sec-
10 retary shall consult with all Indian tribes with
11 legal or historic interests in the protection of
12 salmonid species in the area of the Columbia
13 River and its tributaries described in paragraph
14 (8).

15 “(3) LIMITATIONS ON ANNUAL TAKINGS.—The
16 process for determining limitations on annual take
17 of sea lions shall follow the process established
18 under subsection (c), and the cumulative number of
19 sea lions authorized to be taken each year under all
20 permits in effect under this subsection shall not ex-
21 ceed 10 percent of the annual potential biological re-
22 moval level for sea lions.

23 “(4) REQUIREMENTS OF TAKINGS.—

24 “(A) IN GENERAL.—Intentional lethal
25 takings under this subsection shall—

1 “(i) be humane within the meaning of
2 such term under section 3(4);

3 “(ii) use capture, handling, transpor-
4 tation, and euthanasia protocols that are
5 based on standards propagated by an In-
6 stitutional Animal Care and Use Com-
7 mittee;

8 “(iii) not involve the use of firearms,
9 as defined in section 921(a) of title 18,
10 United States Code, except as a form of
11 secondary euthanasia; and

12 “(iv) be implemented by agencies or
13 qualified individuals described in sub-
14 section (c)(4), or by individuals employed
15 by the eligible entities described in para-
16 graph (6).

17 “(B) REMAINS.—The remains of any sea
18 lion taken and euthanized pursuant to this sub-
19 section shall, upon request of an Indian tribe
20 with a legal or historic interest in the protection
21 of salmonid species in the area of the Columbia
22 River and its tributaries described in paragraph
23 (8) and that has a demonstrated historic cul-
24 tural practice of using sea lion remains in tribal
25 cultural practices, and in accord with proce-

1 dures established by the Secretary, be distrib-
2 uted to that tribe.

3 “(5) SUSPENSION OF PERMITTING AUTHOR-
4 ITY.—If, 5 years after the date of the enactment of
5 the Predation Reduction of Salmon Act, the Sec-
6 retary, after consulting with State and tribal fishery
7 managers, determines that lethal removal authority
8 is no longer necessary to protect the species de-
9 scribed in paragraph (1) from sea lion predation, the
10 Secretary shall suspend the issuance of permits
11 under this subsection.

12 “(6) ELIGIBLE ENTITY DEFINED.—

13 “(A) IN GENERAL.—In this subsection,
14 subject to subparagraph (B), the term ‘eligible
15 entity’ means the State of Washington, the
16 State of Oregon, and the State of Idaho.

17 “(B) MEMORANDA OF UNDERSTANDING
18 FOR ADDITIONAL ELIGIBILITY.—

19 “(i) IN GENERAL.—An eligible entity
20 described in subparagraph (A) may enter
21 into a memorandum of understanding with
22 any Indian tribe with legal or historic in-
23 terests in the protection of the species de-
24 scribed in paragraph (1) in the area of the
25 Columbia River and its tributaries de-

1 scribed in paragraph (8) for deterrence
2 and removal of sea lions.

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

8 “(7) INDIVIDUAL EXCEPTION.—For purposes of
9 this subsection, any sea lion located between Colum-
10 bia River river mile 112 and the Bonneville Dam, or
11 in any tributary to the Columbia River with a con-
12 fluence below the Bonneville Dam that includes
13 spawning habitat of threatened or endangered salm-
14 on or steelhead is deemed to be individually identifi-
15 able.

16 “(8) SIGNIFICANT NEGATIVE IMPACT EXCEP-
17 TION.—For purposes of this subsection, any sea lion
18 located between Columbia River river mile 112 and
19 the Bonneville Dam, or in any tributary to the Co-
20 lumbia River with a confluence below Bonneville
21 Dam that includes spawning habitat of threatened
22 or endangered salmon or steelhead is deemed to be
23 having a significant negative impact on the decline
24 or recovery of salmonid fishery stocks described in
25 subsection (b)(1).

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

5 **SEC. 4. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-**
6 **DIAN TRIBES.**

7 Nothing in this Act or the amendments made by this
8 Act shall be construed to enlarge, affect, or modify any
9 treaty or other right of an Indian tribe (as defined in sec-
10 tion 4 of the Indian Self-Determination and Education As-
11 sistance Act (25 U.S.C. 5304)), except as expressly set
12 forth in this Act or the amendments made by this Act.

13 **SEC. 5. REPORT.**

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

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