

# Union Calendar No. 208

115TH CONGRESS  
1ST SESSION

# H. R. 2083

[Report No. 115–289]

To amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon and other nonlisted species, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2017

Ms. HERRERA BEUTLER (for herself and Mr. SCHRADER) introduced the following bill; which was referred to the Committee on Natural Resources

SEPTEMBER 5, 2017

Additional sponsors: Mr. NEWHOUSE, Mr. YOUNG of Alaska, and Mrs. McMORRIS RODGERS

SEPTEMBER 5, 2017

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# **A BILL**

To amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon and other nonlisted species, and for other purposes.

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 “Endangered Salmon  
5       and Fisheries Predation Prevention Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

8               (1) There are 13 groups of salmon and  
9       steelhead that are listed as threatened species or en-  
10      dangered species under the Endangered Species Act  
11      of 1973 that migrate through the lower Columbia  
12      River. All lower Columbia River tributaries contain  
13      listed species including Chinook, Chum and Coho  
14      salmon as well as winter-run steelhead.

15              (2) The people of the Northwest United States  
16      are united in their desire to restore healthy salmon  
17      and steelhead runs because they are integral to the  
18      region’s culture and economy.

19              (3) The Columbia River treaty Tribes retain  
20      important rights with respect to salmon and  
21      steelhead.

22              (4) Federal, State, and Tribal governments  
23      have spent billions of dollars to assist the recovery  
24      of Columbia River basin salmon and steelhead popu-  
25      lations.

1           (5) One of the factors negatively impacting  
2 salmonid populations is increased predation by ma-  
3 rine mammals, including California sea lions.

4           (6) The population of California sea lions has  
5 increased 10-fold over the last 3 decades, and is cur-  
6 rently approximately 300,000 animals.

7           (7) Biologists estimate that in recent years as  
8 many as 3,000 California sea lions have been for-  
9 aging from the lower 145 miles of the Columbia  
10 River up to Bonneville Dam during the peak spring  
11 salmonid run.

12           (8) Historically, California sea lions, whose  
13 habitat is fundamentally salt water, did not venture  
14 very far up into the Columbia River.

15           (9) The percentage of the spring salmonid run  
16 that has been eaten or killed by California sea lions  
17 at Bonneville Dam has increased 7-fold since 2002.

18           (10) Federal, State and Tribal estimates indi-  
19 cate that sea lions are consuming at least 20 percent  
20 of the Columbia River spring chinook run and 15  
21 percent of Willamette River steelhead run, two  
22 salmonid species listed under the Endangered Spe-  
23 cies Act of 1973.

24           (11) In recent years, California sea lions have  
25 congregated with greater frequency near Willamette

1 Falls and Bonneville Dam and have entered the fish  
2 ladders that salmon must use to return to their his-  
3 toric and biological spawning grounds.

4 (12) These California sea lions have not been  
5 responsive to extensive hazing methods employed to  
6 discourage this behavior.

7 (13) The process established under the 1994  
8 amendment to the Marine Mammal Protection Act  
9 of 1972 to address predatory sea lion behavior nega-  
10 tively impacting threatened or endangered salmon  
11 runs is protracted and has not worked.

12 (14) The National Oceanic and Atmospheric  
13 Administration has observed that—

14 (A) management efforts to reduce pinniped  
15 predation of endangered and threatened salmon  
16 and steelhead in the area around Bonneville  
17 Dam has been insufficient to reduce the sever-  
18 ity of the threat; and

19 (B) efforts need to focus more on the lower  
20 river and at Willamette Falls.

21 (15) In the interest of protecting Columbia  
22 River threatened and endangered salmonids, a tem-  
23 porary expedited procedure is urgently needed to  
24 allow removal of the minimum number of California  
25 sea lions as is necessary to protect the passage of

1 threatened and endangered salmonids in the Colum-  
 2 bia River and its tributaries.

3 **SEC. 3. SENSE OF CONGRESS.**

4 It is the sense of the Congress that—

5 (1) preventing predation by sea lions, recovery  
 6 of listed salmonid stocks, and preventing future list-  
 7 ings of fish stocks in the Columbia River under the  
 8 Endangered Species Act of 1973 (16 U.S.C. 1531 et  
 9 seq.) is a vital priority; and

10 (2) the Federal Government should continue to  
 11 fund lethal and nonlethal removal measures for pre-  
 12 venting such predation.

13 **SEC. 4. TAKING OF SEA LIONS ON THE COLUMBIA RIVER**  
 14 **AND ITS TRIBUTARIES TO PROTECT ENDAN-**  
 15 **GERED AND THREATENED SPECIES OF SALM-**  
 16 **ON AND OTHER NONLISTED FISH SPECIES.**

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

20 “(f) TEMPORARY MARINE MAMMAL REMOVAL AU-  
 21 THORITY ON THE WATERS OF THE COLUMBIA RIVER OR  
 22 ITS TRIBUTARIES.—

23 “(1) REMOVAL AUTHORITY.—Notwithstanding  
 24 any other provision of this Act, the Secretary may  
 25 issue a permit to an eligible entity to authorize the

1 intentional lethal taking on the waters of the Colum-  
2 bia River and its tributaries of individually identifi-  
3 able sea lions that are part of a population that is  
4 not categorized under this Act as depleted for the  
5 purpose of protecting species of salmon that are list-  
6 ed as endangered species or threatened species  
7 under the Endangered Species Act of 1973 (16  
8 U.S.C. 1531 et seq.) and other nonlisted fish spe-  
9 cies.

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 Secretary shall approve or  
16 deny an application for a permit under this sub-  
17 section by not later than 30 days after receiving  
18 the application.

19 “(C) DURATION OF PERMIT.—A permit  
20 under this subsection shall be effective for no  
21 more than one year after the date it is issued,  
22 but may be renewed by the Secretary.

23 “(3) LIMITATIONS.—

24 “(A) LIMITATION ON PERMIT AUTHOR-  
25 ITY.—Subject to subparagraph (B), a permit

1           issued under this subsection shall not authorize  
2           the lethal taking of more than 100 sea lions  
3           during the duration of the permit.

4           “(B) LIMITATION ON ANNUAL TAKINGS.—  
5           The cumulative number of sea lions authorized  
6           to be taken each year under all permits in ef-  
7           fect under this subsection shall not exceed 10  
8           percent of the annual potential biological re-  
9           moval level.

10          “(4) TRAINING IN NATURAL RESOURCES MAN-  
11          AGEMENT.—Permit holders exercising lethal removal  
12          authority pursuant to this Act shall be trained in  
13          natural resource management.

14          “(5) DELEGATION OF PERMIT AUTHORITY.—  
15          Any eligible entity may delegate to any other eligible  
16          entity the authority to administer its permit author-  
17          ity under this subsection.

18          “(6) NEPA.—Section 102(2)(C) of the Na-  
19          tional Environmental Policy Act of 1969 (42 U.S.C.  
20          4332(2)(C)) shall not apply with respect to this sub-  
21          section and the issuance of any permit under this  
22          subsection during the 5-year period beginning on the  
23          date of the enactment of this subsection.

24          “(7) SUSPENSION OF PERMITTING AUTHOR-  
25          ITY.—If, 5 years after the date of the enactment of



1       this subsection, the Secretary, after consulting with  
2       State and tribal fishery managers, determines that  
3       lethal removal authority is no longer necessary to  
4       protect salmonid and other fish species from sea lion  
5       predation, the Secretary may suspend the issuance  
6       of permits under this subsection.

7               “(8) ELIGIBLE ENTITY DEFINED.—In this sub-  
8       section, the term ‘eligible entity’ means each of the  
9       State of Washington, the State of Oregon, the State  
10      of Idaho, the Nez Perce Tribe, the Confederated  
11      Tribes of the Umatilla Indian Reservation, the Con-  
12      federated Tribes of the Warm Springs Reservation  
13      of Oregon, the Confederated Tribes and Bands of  
14      the Yakama Nation, the Columbia River Inter-Tribal  
15      Fish Commission, and the Cowlitz Indian Tribe.

16              “(9) INDIVIDUAL PINNIPED EXCEPTION.—For  
17      purposes of this section, any pinniped located up-  
18      stream of river mile 112 of the Columbia River and  
19      all tributaries that include spawning habitat of  
20      threatened or endangered salmon or steelhead is  
21      deemed to be individually identifiable.”.

1 **SEC. 5. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-**  
2 **DIAN TRIBES.**

3       Nothing in this Act or the amendment made by this  
4 Act shall be construed to affect or modify any treaty or  
5 other right of any federally recognized Indian Tribe.



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