

Comparing the base document H.R. 2083, as reported, with the Rules Committee Print 115-79

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Section 1. Short title

This Act may be cited as the "Endangered Salmon and Fisheries Predation Prevention Act".

[NOTE-- DELETED : ~~Sec. 2. Findings~~]

Sec. ~~32~~. Sense of Congress

It is the sense of the Congress that—

(1) preventing on of predation by ~~sea lion~~ pinnipeds, recovery of ~~listed~~ salmonid stocks listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and preventing on of the future listings of fish stocks in the Columbia River under ~~the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)~~ issuch Act are a vital priority; and

(2) the Federal Government should continue to fund lethal and nonlethal removal of pinnipeds as well as deterrence measures for preventing such predation.

Sec. ~~43~~. Taking of ~~sea lion~~ pinnipeds on the Columbia River and its tributaries to protect endangered and threatened species of salmon and other nonlisted fish species

Section 120(f) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1389(f)) is amended to read as follows:

"(f) TEMPORARY MARINE MAMMAL REMOVAL AUTHORITY ON THE WATERS OF THE COLUMBIA RIVER ~~OR~~ AND ITS TRIBUTARIES.—

"(1) REMOVAL AUTHORITY.— Notwithstanding any other provision of this Act, the Secretary may issue a permit to an eligible entity to authorize the intentional lethal taking on the waters of the Columbia River and its tributaries of individually identifiable ~~sea lion~~ pinnipeds that are part of a population or stock that is not categorized under this Act as depleted or strategic for the purpose of protecting—

"(A) species of salmon, steelhead, or eulachon that are listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and ~~other~~

"(B) species of lamprey or sturgeon that are nont listed ~~fish species as endangered or threatened~~ but are listed as a species of concern.

"(2) PERMIT PROCESS.—

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

"(B) DEADLINE FOR CONSIDERATION OF APPLICATION.— ~~The Secretary shall approve or deny~~ antimelines and procedures described in subsection (c) shall apply to applications for a permit under this subsection ~~by not later than 30 days after receiving the application in the same manner such~~ timelines apply to applications under subsection (b).

"(C) COORDINATION.—The Secretary shall establish procedures for coordination among eligible entities, including application procedures and timelines, geographic and species-specific considerations, and monitoring and periodic review.

"(D) Duration of permit.— A permit under this subsection shall be effective for ~~not~~ more than ~~one~~ 5 years ~~after the date it is issued, but~~ nd may be renewed by the Secretary.

"(3) LIMITATIONS.—

"(A) LIMITATION ON PERMIT AUTHORITY.—~~Subject to subparagraph (B), a permit issued under this subsection shall not authorize the leth~~ on annual takings.—The process for determining ~~limitations on annual taking~~ e of more than 100 sea lions during the duration of the permit.

"(B) LIMITATION ON ANNUAL TAKINGS.—~~T~~pinnipeds will follow the process established in subsection (c) and the cumulative number of sea lion~~pinnipeds~~ pinnipeds authorized to be taken each year under all permits in effect under this subsection shall not exceed 10 percent of the annual potential biological removal level for pinnipeds.

"(4) TRAINING IN NATURAL RESOURCES MANAGEMENT.—~~Permit holders exercising lethal removal authority pursuant to this Act shall be trained in natural resource management.~~

"(5) DELEGATION OF PERMIT AUTHORITY.—~~Any eligible entity may delegate to any other eligible entity the authority to administer its permit authority under this subsection.~~

"(6) NEPA.—~~Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2) (C)) shall not apply with respect to this subsection and the issuance of any permit under this subsection during the 5-year period beginning on the date of the enactment of this subsection~~ Qualified individuals. —Intentional lethal takings under this subsection shall be humane and shall be implemented by agencies or qualified individuals described in subsection (c)(4), or by individuals employed by the eligible entities described in paragraph (6).

"(7) Suspension of permitting authority.— If, 5 years after the date of the enactment of this ~~subsection~~ Endangered Salmon and Fisheries Predation Prevention Act, the Secretary, after consulting with State and tribal fishery managers, determines that lethal removal authority is no longer necessary to protect salmonid and other fish species from ~~sea lion~~ pinniped predation, the Secretary ~~may~~ shall suspend the issuance of permits under this subsection.

"(8) Eligible entity defined.— ~~In this subsection, the term 'eligible entity' means each of~~

"(A) IN GENERAL.—

"(i) DEFINITION.—~~In this subsection, subject to subparagraph (B), the term 'eligible entity' means—~~

"(I) with respect to removal in the mainstem of the Columbia River and its tributaries, the State of Washington, the State of Oregon, and the State of Idaho;

"(II) with respect to removal in the mainstem of the Columbia River and its tributaries, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation, and the Columbia River Inter-Tribal Fish Commission; ~~and the Cowlitz Indian Tribe.~~

; and

"(ii) DELEGATION AUTHORITY.—~~The Secretary may allow an eligible entity described in clause (i)(II) to delegate its authority under a permit under this subsection to any entity described in clause (i)(II).~~

"(B) ADDITIONAL ELIGIBILITY.—

"(i) IN GENERAL.—~~Subject to the approval of the Secretary and in consultation with the Indian Tribes in subparagraph (A)(i)(II)—~~

"(I)the State of Washington may enter into a memorandum of understanding with the Cowlitz Indian Tribe for deterrence and removal of sea lions on the Cowlitz River.

"(II)the State of Oregon may enter into a memorandum of understanding with the Confederated Tribes of the Grand Ronde Community of Oregon and the Confederated Tribes of Siletz Indians of Oregon for deterrence and removal of sea lions on the Willamette River.

"(9ii) CONSIDERATIONS.—In determining eligibility under this subparagraph, the Secretary shall consider the capacity of each Indian tribe to manage wildlife to meet the requirements of this Act.

"(7)INDIVIDUAL PINNIPED EXCEPTION.— For purposes of this section, any pinniped located upstream of Columbia River river mile 112, of the Columbia River and all tributaries in any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead is deemed to be individually identifiable.

"(8)SIGNIFICANT NEGATIVE IMPACT EXCEPTION.—For purposes of this section, any pinniped located in the mainstem of the Columbia River upstream of river mile 112, or in any tributary to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead is deemed to be individually identifiablehaving a significant negative impact on the decline or recovery of salmonid fishery stocks described in subsection (b)(1).

"(9)DEFINITION.—In this subsection, the term 'Indian tribe' has the meaning given such term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)."

Sec. 54. Treaty rights of federally recognized Indian Tribes

Nothing in this Act or the amendments made by this Act shall be construed to affect or modify any treaty or other right of any federally recognized Indian Tribe *Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)).*

Deleted Sections

Sec. 2. Findings

Congress finds the following:

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

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

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

(4) Federal, State, and Tribal governments have spent billions of dollars to assist the recovery of Columbia River basin salmon and steelhead populations.

(5) One of the factors negatively impacting salmonid populations is increased predation by marine mammals, including California sea lions.

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

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

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

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

(10) Federal, State and Tribal estimates indicate that sea lions are consuming at least 20 percent of the Columbia River spring chinook run and 15 percent of Willamette River steelhead run, two salmonid species listed under the Endangered Species Act of 1973.

~~(11) In recent years, California sea lions have congregated with greater frequency near Willamette Falls and Bonneville Dam and have entered the fish ladders that salmon must use to return to their historic and biological spawning grounds.~~

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

~~(13) The process established under the 1994 amendment to the Marine Mammal Protection Act of 1972 to address predatory sea lion behavior negatively impacting threatened or endangered salmon runs is protracted and has not worked.~~

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

~~(A) management efforts to reduce pinniped predation of endangered and threatened salmon and steelhead in the area around Bonneville Dam has been insufficient to reduce the severity of the threat; and~~

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

~~(15) In the interest of protecting Columbia River threatened and endangered salmonids, a temporary expedited procedure is urgently needed to allow removal of the minimum number of California sea lions as is necessary to protect the passage of threatened and endangered salmonids in the Columbia River and its tributaries.~~

