

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 6157) MAKING APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2019, AND FOR OTHER PURPOSES, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2083) 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

JUNE 25, 2018.—Referred to the House Calendar and ordered to be printed

Ms. CHENEY, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 961]

The Committee on Rules, having had under consideration House Resolution 961, by a record vote of 8 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 6157, the Department of Defense Appropriations Act, 2019, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The resolution waives all points of order against consideration of the bill. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-77 shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended, for failure to comply with clause 2 rule XXI, except beginning on page 86, line 1, through page 86, line 7. The resolution makes in order only those further amendments printed in part A of this report. Each such amendment may be Offered only in the order printed in this report, may be Offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments print-

ed in part A of this report. The resolution provides that no further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

Section 3 of the resolution provides that the chair and ranking minority member of the Committee on Appropriations or their respective designees may offer up to 10 pro forma amendments each at any point for the purpose of debate.

Section 4 of the resolution provides that during consideration of H.R. 6157, it shall not be in order to use a decrease in Overseas Contingency Operations funds to offset an amendment that increases an appropriation not designated as Overseas Contingency Operations funds or vice versa, but does not apply to amendments between the Houses.

Section 2 of the resolution provides for consideration of H.R. 2083, Endangered Salmon and Fisheries Predation Prevention Act, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-79 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part B of this report. Each such amendment may be Offered only in the order printed in this report, may be Offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part B of this report. The resolution provides one motion to recommit with or without instructions.

Section 5 of the resolution provides that H. Res. 952 is laid on the table.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 6157 includes a waiver of the following:

- Section 306 of the Congressional Budget Act, which prohibits consideration of legislation within the jurisdiction of the Committee on the Budget unless referred to or reported by the Budget Committee.

The waiver of all points of order against provisions in H.R. 6157, as amended, includes a waiver of clause 2 of rule XXI, which prohibits unauthorized appropriations or legislative provisions in an appropriations bill. This waiver is necessary because the bill, as amended, contains unauthorized appropriations and legislative provisions.

Although the resolution waives all points of order against the amendments printed in part A of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.R. 2083, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 2083 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 248

Motion by Mr. Cole to report the rule. Adopted: 8–3

Majority Members	Vote	Minority Members	Vote
Mr. Cole	Yea	Mr. McGovern	Nay
Mr. Woodall	Yea	Mr. Hastings of Florida	Nay
Mr. Burgess	Yea	Mr. Polis
Mr. Collins	Yea	Mrs. Torres	Nay
Mr. Byrne	Yea		
Mr. Newhouse		
Mr. Buck	Yea		
Ms. Cheney	Yea		
Mr. Sessions, Chairman	Yea		

SUMMARY OF THE AMENDMENTS TO H.R. 6157 IN PART A MADE IN ORDER

1. Jackson Lee (TX): Allocates \$2 million to provide the Secretary of Defense the flexibility needed for technical assistance for U.S. military women to military women in other countries combating violence targeting women and children as a weapon of war, terrorism, human trafficking, narcotics trafficking. (10 minutes)

2. Lowenthal (CA), Welch (VT): Increases the STARBASE fifth grade youth STEM education program found in Operations and Maintenance, Defense-Wide, Civil Military Programs by \$5 million, and to reduce Operations and Maintenance, Army, Other Servicewide Activities by the offsetting amount. (10 minutes)

3. Gallagher (WI), Murphy, Stephanie (FL): Shifts \$48.242M within defense-wide operation and maintenance to support the Maritime Security Initiative to address Indo-PACOM budget priorities for building partner capacity to contribute to maritime security and domain awareness. (10 minutes)

4. Napolitano (CA), McKinley (WV): Increases funding for the National Guard Youth Challenge Program by \$6 million to match the program's 2018 funding of \$180 million (10 minutes)

5. McGovern (MA), Emmer (MN): Provides the Department of Defense with \$250,000 for administrative expenses for purposes of creating a military service medal to honor retired and former members of the Armed Forces who are radiation-exposed veterans (Atomic Veterans). Atomic Veterans are determined in section 1112(c)(3) of title 38, in the United States Code. (10 minutes)

6. Allen (GA), Raskin (MD): Transfers \$10,000,000 to the Defense POW/Missing Persons Office to assist in identifying unclaimed remains missing since the Korean conflict. (10 minutes)

7. McSally (AZ), Hartzler (MO), Scott, Austin (GA): Increases A-10 wing replacement funds to House-passed NDAA level. (10 minutes)

8. Soto (FL): Increases funding for the Quantum Information Sciences program within the Research, Development, Test and Evaluation, Army account by \$5 million to further advance quantum computing research. (10 minutes)

9. Langevin (RI), Gallagher (WI): Provides \$10 million for Weapons and Munitions Technology (0602624A), \$10 million for Innovative Naval Prototypes (INP) Applied Research (0602792N), and \$20 million for Innovative Naval Prototypes Advanced Technology Development (0603801N) to be used for accelerated development and prototyping for the electromagnetic railgun. (10 minutes)

10. Lipinski (IL): Provides \$30M for MD5, the National Security Technology Accelerator, to support national security innovation and entrepreneurial education programs at universities. Reduces Operations and Maintenance-Defense Wide by the same amount. (10 minutes)

11. Larson, John (CT), Lipinski (IL): Provides for an additional \$12.5 million to the National Defense Education Programs (NDEP) account (PE 0601120D8Z) to be directed to the Barry Goldwater Scholarship and Excellence in Education Foundation to remain available until expended, offset by \$12.5 million reduction in the Operation and Maintenance, Defense-wide account. (10 minutes)

12. Jackson Lee (TX): Reduces funding for Operations and Maintenance-Defense Wide, by \$6.25 million and increases funding for Defense Health Care for PTSD by \$5 million. (10 minutes)

13. Duffy (WI), DeLauro (CT): Increases funding for the Peer-Reviewed Ovarian Cancer Research Program by \$10 million offset by a reduction in funding for defense-wide operations and maintenance appropriations by a similar amount. (10 minutes)

14. Soto (FL): Increases funding for Gulf War illness research under the Defense Health Program by \$1 million. (10 minutes)

15. Lamborn (CO), Norcross (NJ), Biggs (AZ), Brooks (AL), O'Halleran (AZ): Decreases the Defense Wide Procurement account by \$99,280,000 and increases the account by the same amount to restore funding requested by Missile Defense Agency in the FY19 budget request in order to initiate multi-year procurement of the SM-3 IB interceptor. (10 minutes)

16. Hastings, Alcee (FL), McGovern (MA), Costello (PA), King, Peter (NY): Increases Peer-Reviewed Breast Cancer Research Program funding by \$5,000,000. (10 minutes)

17. McKinley (WV), Eshoo (CA), King, Peter (NY), Katko (NY): Creates a \$20 million dedicated line item for arthritis research within the Congressionally Directed Medical Research Program (CDMRP). (10 minutes)

18. Speier (CA): Specifies that \$25 million of the \$1,300,315,000 appropriated for Defense Health Program research, development, test and evaluation may be used to award grants to medical researchers and universities to support research into early detection of chronic traumatic encephalopathy (CTE), as authorized by H.R. 2810, the FY18 National Defense Authorization Act. (10 minutes)

19. Huffman (CA), Buck (CO), Norman (SC): Strikes the restriction on the Pentagon's ability to flexibly source its energy for the Rhine Ordnance Barracks Army Medical Center in Germany. (10 minutes)

20. Poe (TX): Reduces the amount of Coalition Support Fund reimbursements Pakistan is eligible to receive by \$200 million. (10 minutes)

21. Polis (CO), Lee, Barbara (CA), Grothman (WI): Reduces spending by 1 percent with exceptions. (10 minutes)

22. Moore, Gwen (WI): Bars the use of funds in contravention of existing federal requirements for meaningful consultation and engagement with tribal communities related to activities that will impact them. (10 minutes)

23. Khanna (CA), Moore, Gwen (WI): Reduces the total amount appropriated by \$5 billion. (10 minutes)

24. Brown (MD), Ruppertsberger (MD): Ensures none of the funds made available by this Act may be used to transfer the information technology contracting and acquisition services or the Senior Leader Communications functions of the Defense Information Systems Agency. (10 minutes)

SUMMARY OF THE AMENDMENTS TO H.R. 2083 IN PART B MADE IN ORDER

1. Kilmer (WA), Heck, Denny (WA): Limits the application of this bill to only sea lions, rather than all pinnipeds. (10 minutes)

2. Huffman (CA): Protects endangered and threatened salmon and to prevent predation by sea lions through deterrence and limited removal measures. (10 minutes)

3. Vargas (CA): Mandates that the Secretary of the Interior produce a report to Congress on the potential impact of the lethal taking of California Sea Lions on the recovery of Salmonid stocks. (10 minutes)

PART A—TEXT OF AMENDMENTS TO H.R. 6157 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, line 15, after the dollar amount, insert “(reduced by \$2,000,000) (increased by \$2,000,000)”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LOWENTHAL OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, line 6, after the dollar amount insert the following: “(reduced by \$5,600,000)”.

Page 8, line 15, after the dollar amount inset the following: “(increased by \$5,000,000)”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GALLAGHER OF WISCONSIN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$48,242,000) (increased by \$48,242,000)”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NAPOLITANO OF CALIFORNIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount insert the following: “(increased by \$6,000,000) (reduced by \$6,000,000)”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCGOVERN OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$250,000) (increased by \$250,000)”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ALLEN OF GEORGIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$10,000,000) (increased by \$10,000,000)”.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCSALLY OF ARIZONA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$65,000,000)”.

Page 27, line 11, after the dollar amount, insert “(increased by \$65,000,000)”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SOTO OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$5,000,000)”.

Page 31, line 18, after the dollar amount, insert “(increased by \$5,000,000)”.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LANGEVIN OF RHODE ISLAND OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$33,000,000)”.

Page 31, line 18, after the dollar amount, insert “(increased by \$10,000,000)”.

Page 32, line 1, after the dollar amount, insert “(increased by \$30,000,000)”.

Page 32, line 23, after the dollar amount, insert “(reduced by \$7,000,000)”.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LIPINSKI
OF ILLINOIS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$30,000,000)”.

Page 32, line 23, after the dollar amount, insert “(increased by \$30,000,000)”.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LARSON
OF CONNECTICUT OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$12,500,000)”.

Page 32, line 23, after the dollar amount, insert “(increased by \$12,500,000)”.

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON
LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$6,250,000)”.

Page 34, line 13, after the dollar amount, insert “(increased by \$5,000,000)”.

Page 34, line 21, after the dollar amount, insert “(increased by \$5,000,000)”.

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DUFFY OF
WISCONSIN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$10,000,000)”.

Page 34, line 13, after the dollar amount, insert “(increased by \$10,000,000)”.

Page 34, line 21, after the dollar amount, insert “(increased by \$10,000,000)”.

14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SOTO OF
FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 15, after the dollar amount, insert “(reduced by \$1,000,000)”.

Page 34, line 13, after the dollar amount, insert “(increased by \$1,000,000)”.

Page 34, line 21, after the dollar amount, insert “(increased by \$1,000,000)”.

15. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LAMBORN
OF COLORADO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 30, line 14, after the dollar amount, insert “(reduced by \$99,280,000) (increased by \$99,280,000)”.

16. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 32, line 23, after the dollar amount, insert “(reduced by \$5,000,000)”.

Page 34, line 13, after the dollar amount, insert “(increased by \$5,000,000)”.

Page 34, line 21, after the dollar amount, insert “(increased by \$5,000,000)”.

17. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCKINLEY OF WEST VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 34, line 14, after the dollar amount, insert “(reduced by \$20,000,000)”.

Page 34, line 21, after the dollar amount, insert “(increased by \$20,000,000)”.

18. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SPEIER OF CALIFORNIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 34, line 21, after the dollar amount, insert “(reduced by \$25,000,000) (increased by \$25,000,000)”.

19. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HUFFMAN OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 115, line 10, insert “and” after the semicolon.

Page 115, beginning line 12, strike “from a mixed-fuel system”.

Page 115, line 16, strike “; and” and insert a period.

Page 115, strike lines 17 through 19.

20. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POE OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 122, line 10, after the dollar amount, insert “(reduced by \$200,000,000)”.

Page 122, line 12, after the dollar amount, insert “(reduced by \$200,000,000)”.

Page 154, line 21, after the dollar amount, insert “(increased by \$200,000,000)”.

21. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POLIS OF COLORADO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill (before the short title), insert the following:
SEC. _____. (a) The total amount of appropriations made available by this Act is hereby reduced by one percent.

(b) The reduction in subsection (a) shall not apply to amounts made available—

(1) under title I for “Military Personnel”;

(2) under title VI for “Defense Health Program”;

(3) under title IX; or

(4) by this Act for the salaries and expenses of any civilian employee of the Department of Defense.

22. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOORE OF WISCONSIN OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill (before the short title), insert the following:
SEC. _____. None of the funds made available by this Act may be used in contravention of—

- (1) Executive Order 13175 (65 Fed. Reg. 67249; relating to consultation and coordination with Indian Tribal governments); or
 - (2) section 1501.2(d)(2) of title 40, Code of Federal Regulations.
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23. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KHANNA OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill (before the short title), insert the following:
SEC. _____. (a) The total amount of appropriations made available by this Act is hereby reduced by \$5,000,000,000.

(b) The reduction in subsection (a) shall not apply to amounts made available—

- (1) under title I for “Military Personnel”;
 - (2) under title VI for “Defense Health Program”; or
 - (3) by this Act for the salaries and expenses of any civilian employee of the Department of Defense.
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24. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BROWN OF MARYLAND OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill (before the short title), insert the following:
SEC. _____. None of the funds made available by this Act may be used to transfer the information technology contracting and acquisition services or the Senior Leader Communications functions of the Defense Information Systems Agency.

PART B—TEXT OF AMENDMENTS TO H.R. 2083 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KILMER OF WASHINGTON OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike “pinnipeds” in each place it appears and insert “sea lions”.
Strike “pinniped” in each place it appears and insert “sea lion”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HUFFMAN OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 1, strike line 4 and all that follows and insert the following:

SEC. 2. SENSE OF CONGRESS.

It is the sense of the Congress that—

- (1) prevention of predation by sea lions, recovery of salmonid stocks listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and prevention of the future listings of

fish stocks in the Columbia River under such Act are a vital priority; and

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

SEC. 3. TAKING OF SEA LIONS 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 AND ITS TRIBUTARIES.—

“(1) DETERMINATION OF NON-LETHAL ALTERNATIVE MEASURES.—

“(A) IN GENERAL.—The Secretary shall determine whether nonlethal alternative measures to reduce sea lion predation of salmonid stocks in the waters of the Columbia River or its tributaries listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) adequately protect the salmonid stocks from California sea lion predation.

“(B) DEADLINE.—The Secretary shall make such determination not later than 90 days after the date of the enactment of this subsection.

“(C) PUBLIC COMMENT.—The Secretary shall, within such 90-day period, provide up to 30 days for the submission of public comments on the determination.

“(D) FEDERAL REGISTER.—The Secretary shall publish the determination in the Federal Register.

“(2) REMOVAL AUTHORITY.—In addition to other authority under this section, and notwithstanding any other provision of this Act, the Secretary may issue a permit to an eligible entity, as defined in paragraph (9), to authorize the intentional lethal taking on the waters of the Columbia River and its tributaries of individually identifiable sea lions that are—

“(A) part of a population that is not categorized under this Act as depleted; and

“(B) having a significant negative impact on the decline or recovery of salmonid fishery stocks.

“(3) 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 timelines and procedures described in subsection (c) shall apply to applications for permits under this subsection 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 1 year.

“(4) LIMITATION ON TAKE FOR SPECIES WITH UNKNOWN POTENTIAL BIOLOGICAL REMOVAL LEVELS.—No lethal taking of sea lions may be authorized under this section if the potential biological removal level is unknown.

“(5) LIMITATION ON ANIMAL AUTHORIZED TO BE TAKEN.—

“(A) DETERMINATION REQUIRED.—A sea lion may not be taken under a permit under this subsection unless the Secretary has determined that—

“(i) such sea lion has preyed upon salmonid stocks in the Columbia River; and

“(ii) with respect to such sea lion, nonlethal alternative measures to prevent preying on salmonid stocks have in general not been effective.

“(B) CONSULTATION.—In making such determination, the permit holder shall consult with the National Marine Fisheries Service, and may consult with any other Federal agency or eligible entity as appropriate.

“(6) LIMITATIONS ON ANNUAL TAKINGS.—The process for determining limitations on annual take of sea lions will follow the process established in subsection (c) and the cumulative number of sea lions authorized to be taken each year under all permits in effect under this subsection shall not exceed 5 percent of the annual potential biological removal level for sea lions.

“(7) 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 (9).

“(8) SUSPENSION OF PERMITTING AUTHORITY.—If, 5 years after the date of the enactment of the 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 predation, the Secretary shall suspend the issuance of permits under this subsection.

“(9) ELIGIBLE ENTITY DEFINED.—

“(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 Intertribal Fish Commission; 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.

“(ii) 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.

“(10) SEA LIONS DEEMED INDIVIDUALLY IDENTIFIABLE.—Sea lions that have been observed in a discrete section of the Columbia River are deemed to be individually identifiable and to be having a significant negative impact on salmonid species or sturgeon species stocks that migrate through or spawn in a protected area of the Columbia River Basin, within the meaning of paragraph (2).

“(11) ADDITIONAL DEFINITIONS.—In this subsection—

“(A) the term ‘discrete section of the Columbia River’ means—

“(i) the area within 1 mile downstream of Bonneville Dam;

“(ii) the area within 1.5 miles downstream of Willamette Falls;

“(iii) the area within 1 mile of Phoca Rock; or

“(iv) another area, 0.5 miles or less in length within a protected area, designated by the Secretary, as the Secretary determines necessary to protect threatened or endangered species or a species that the Secretary determines may become threatened or endangered without additional protections; and

“(B) the term ‘protected area’ means—

“(i) the mainstem Columbia River within 1 mile downstream of Bonneville Dam and including the mainstem above such dam;

“(ii) spawning grounds for sturgeon within the mainstem Columbia River between river mile 138 and Bonneville Dam; or

“(iii) a tributary spawning and rearing habitat for salmon, steelhead, sturgeon, or lamprey below Bonneville Dam, including the area within one-half mile of the confluence with the mainstem Columbia River.

“(12) 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. 4. 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 an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)).

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE VARGAS OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end the following:

SEC. __. REPORT AND EFFECTIVE DATE.

(a) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Interior shall study and report to the Congress on the potential effects of the lethal taking of pinnipeds on the recovery of salmonid stocks in the waters of the Columbia River and the tributaries of the Columbia River.

(b) **EFFECTIVE DATE.**—Section 3 shall take effect on the date that the Secretary submits to the Congress the report required under subsection (a).

