H. R. 2083

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2018

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

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,
SECTION 1. SHORT TITLE.

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

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) 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 lions 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

“(B) species of lamprey or sturgeon that are not listed 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 timelines and procedures described in subsection (e) 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 5 years and may be renewed by the Secretary.

“(3) 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 10 percent of the annual potential biological removal level for sea lions.

“(4) 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 indi-
individuals employed by the eligible entities described in paragraph (6).

“(5) 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.

“(6) 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)(I) or (i)(II) to delegate its authority under a permit under this subsection to any eligible entity described in clause (i)(I) or (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 under-
standing with the Confederated Tribes
of the Grand Ronde Community of
Oregon and the Confederated Tribes
of Siletz Indians of Oregon for deter-
rence and removal of sea lions on the
Willamette River.

“(ii) CONSIDERATIONS.—In deter-
mining 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 EXCEPTION.—For purposes of
this section, any sea lion located upstream of Colum-
bia River 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 identifiable.

“(8) SIGNIFICANT NEGATIVE IMPACT EXCEP-
tion.—For purposes of this section, any sea lion lo-
cated in the mainstem of the Columbia River up-
stream 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 having a significant negative impact on
the decline or recovery of salmonid fishery stocks de-
scribed 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 Edu-
cation Assistance Act (25 U.S.C. 5304).”.

SEC. 4. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-
DIAN 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 Assist-
ance Act (25 U.S.C. 5304)).

SEC. 5. REPORT.

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

Passed the House of Representatives June 26, 2018.

Attest: KAREN L. HAAS,

Clerk.