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.

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.
Be it enacted by the Senate and House of Representatives 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. 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.

SEC. 3. SENSE OF CONGRESS.

It is the sense of the Congress that—

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

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

SEC. 4. 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 or 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 that is not categorized under this Act as depleted for the purpose of protecting species of salmon 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 nonlisted fish species.

“(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 an application for a permit under this subsection by not later than 30 days after receiving the application.

“(C) DURATION OF PERMIT.—A permit under this subsection shall be effective for no more than one year after the date it is issued, but 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 lethal taking of more than 100 sea lions
during the duration of the permit.

“(B) Limitation on Annual Takings.—
The cumulative number of sea lions authorized
to be taken each year under all permits in ef-
fect under this subsection shall not exceed 10
percent of the annual potential biological re-
moval level.

“(4) Training in Natural Resources Man-
agement.—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 author-
ity under this subsection.

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

“(7) Suspension of Permitting Author-
ity.—If, 5 years after the date of the enactment of
this subsection, 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 may suspend the issuance of permits under this subsection.

“(8) ELIGIBLE ENTITY DEFINED.—In this subsection, the term ‘eligible entity’ means each of the State of Washington, the State of Oregon, the State of Idaho, 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, the Columbia River Inter-Tribal Fish Commission, and the Cowlitz Indian Tribe.

“(9) INDIVIDUAL PINNIPED EXCEPTION.—For purposes of this section, any pinniped located upstream of river mile 112 of the Columbia River and all tributaries that include spawning habitat of threatened or endangered salmon or steelhead is deemed to be individually identifiable.”.
SEC. 5. TREATY RIGHTS OF FEDERALLY RECOGNIZED INDIAN TRIBES.

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