

Union Calendar No. 651

114TH CONGRESS
2^D SESSION

H. R. 564

[Report No. 114–830]

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

JANUARY 27, 2015

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

NOVEMBER 17, 2016

Additional sponsors: Mr. NEWHOUSE, Mrs. McMORRIS RODGERS, and Mr. SIMPSON

NOVEMBER 17, 2016

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 27, 2015]

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 and*
5 *Fisheries Predation Prevention Act”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds the following:*

8 (1) *There are 13 groups of salmon and steelhead*
9 *that are listed as threatened species or endangered*
10 *species under the Endangered Species Act of 1973*
11 *that migrate through the lower Columbia River.*

12 (2) *The people of the Northwest United States*
13 *are united in their desire to restore healthy salmon*
14 *and steelhead runs, as they are integral to the region’s*
15 *culture and economy.*

16 (3) *The Columbia River treaty tribes retain im-*
17 *portant rights with respect to salmon and steelhead.*

18 (4) *Federal, State, and tribal governments have*
19 *spent billions of dollars to assist the recovery of Co-*
20 *lumbia River salmon and steelhead populations.*

21 (5) *One of the factors impacting salmonid popu-*
22 *lations is increased predation by marine mammals,*
23 *including California sea lions.*

1 (6) *The population of California sea lions has*
2 *increased 6-fold over the last 3 decades, and is cur-*
3 *rently greater than 250,000 animals.*

4 (7) *In recent years, more than 1,000 California*
5 *sea lions have been foraging in the lower 145 miles*
6 *of the Columbia River up to Bonneville Dam during*
7 *the peak spring salmonid run before returning to the*
8 *California coast to mate.*

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

12 (9) *In recent years, California sea lions have*
13 *with greater frequency congregated near Bonneville*
14 *Dam and have entered the fish ladders.*

15 (10) *These California sea lions have not been re-*
16 *sponsive to extensive hazing methods employed near*
17 *Bonneville Dam to discourage this behavior.*

18 (11) *The process established under the 1994*
19 *amendment to the Marine Mammal Protection Act of*
20 *1972 to address aggressive sea lion behavior is pro-*
21 *tracted and will not work in a timely enough manner*
22 *to protect threatened and endangered salmonids in the*
23 *near term.*

24 (12) *In the interest of protecting Columbia River*
25 *threatened and endangered salmonids, a temporary*

1 *expedited procedure is urgently needed to allow re-*
2 *moval of the minimum number of California sea lions*
3 *as is necessary to protect the passage of threatened*
4 *and endangered salmonids in the Columbia River and*
5 *its tributaries.*

6 (13) *On December 21, 2010, the independent*
7 *Pinniped-Fishery Interaction Task Force rec-*
8 *ommended lethally removing more of the California*
9 *sea lions in 2011.*

10 (14) *On August 18, 2011, the States of Wash-*
11 *ington, Oregon, and Idaho applied to the National*
12 *Marine Fisheries Service, under section 120(b)(1)(A)*
13 *of the Marine Mammal Protection Act of 1972 (16*
14 *U.S.C. 1389(b)(1)(A)), for the lethal removal of sea*
15 *lions that the States determined are having a “sig-*
16 *nificant negative impact” on the recovery of Colum-*
17 *bia River and Snake River salmon and steelhead.*

18 (15) *On September 12, 2011, the National Ma-*
19 *rine Fisheries Service announced it was accepting the*
20 *States’ application for lethal removal of sea lions and*
21 *that it would reconvene the Pinniped-Fishery Inter-*
22 *action Task Force to consider the States’ application.*
23 *This Act will ensure the necessary authority for per-*
24 *mits under the Marine Mammal Protection Act of*
25 *1972 to be issued in a timely fashion.*

(16) During a June 14, 2011, hearing, the Committee on Natural Resources of the House of Representatives received testimony from State and tribal witnesses expressing concern that significant pinniped predation of important Northwest fish resources other than salmonids is severely impacting fish stocks determined by both Federal and State fishery management agencies to be at low levels of abundance, and that this cannot be addressed by section 120 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1389), which as in effect before the enactment of this Act restricted control of predatory pinnipeds' impact only with respect to endangered salmonids.

**SEC. 3. TAKING OF SEA LIONS ON THE COLUMBIA RIVER
AND ITS TRIBUTARIES TO PROTECT ENDAN-
GERED AND THREATENED SPECIES OF SALM-
ON AND OTHER NONLISTED FISH SPECIES.**

Section 120 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1389) is amended by striking subsection (f) and inserting the following:

“(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

1 *issue a permit to an eligible entity authorizing the*
2 *intentional lethal taking on the waters of the Colum-*
3 *bia River and its tributaries of sea lions that are part*
4 *of a population that is not categorized as depleted*
5 *under this Act or listed as an endangered species or*
6 *threatened species under the Endangered Species Act*
7 *of 1973 (16 U.S.C. 1531 et seq.), to protect endan-*
8 *gered and threatened species of salmon and other non-*
9 *listed fish species.*

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 AUTHORITY.*—
25 *Subject to subparagraph (B), a permit issued*

1 *under this subsection shall not authorize the le-*
2 *thal taking of more than 10 sea lions during the*
3 *duration of the permit.*

4 *“(B) LIMITATION ON ANNUAL TAKINGS.—*
5 *The cumulative number of sea lions authorized to*
6 *be taken each year under all permits in effect*
7 *under this section shall not exceed one percent of*
8 *the annual potential biological removal level.*

9 *“(4) DELEGATION OF PERMIT AUTHORITY.—Any*
10 *eligible entity may delegate to any other eligible enti-*
11 *ty the authority to administer its permit authority*
12 *under this subsection.*

13 *“(5) NEPA.—Section 102(2)(C) of the National*
14 *Environmental Policy Act of 1969 (42 U.S.C.*
15 *4332(2)(C)) shall not apply with respect to this sub-*
16 *section and the issuance of any permit under this*
17 *subsection during the 5-year period beginning on the*
18 *date of the enactment of this subsection.*

19 *“(6) SUSPENSION OF PERMITTING AUTHORITY.—*
20 *If, 5 years after enactment, the Secretary, after con-*
21 *sulting with State and tribal fishery managers, deter-*
22 *mines that lethal removal authority is no longer nec-*
23 *essary to protect salmonid and other fish species from*
24 *sea lion predation, may suspend the issuance of per-*
25 *mits under this subsection.*

1 “(7) *ELIGIBLE ENTITY DEFINED.*—*In this sub-*
2 *section, the term ‘eligible entity’ means each of the*
3 *State of Washington, the State of Oregon, the State*
4 *of Idaho, the Nez Perce Tribe, the Confederated Tribes*
5 *of the Umatilla Indian Reservation, the Confederated*
6 *Tribes of the Warm Springs Reservation of Oregon,*
7 *the Confederated Tribes and Bands of the Yakama*
8 *Nation, and the Columbia River Inter-Tribal Fish*
9 *Commission.*

10 “(8) *TRAINING IN WILDLIFE MANAGEMENT.*—
11 *Permit holders exercising lethal removal authority*
12 *pursuant to this Act shall be trained in wildlife man-*
13 *agement.’.*

14 **SEC. 4. SENSE OF CONGRESS.**

15 *It is the sense of the Congress that—*

16 (1) *preventing predation by sea lions, recovery of*
17 *listed salmonid stocks, and preventing future listings*
18 *of fish stocks in the Columbia River is a vital pri-*
19 *ority; and*

20 (2) *the Federal Government should continue to*
21 *fund lethal and nonlethal removal measures for pre-*
22 *venting such predation.*

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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