AMENDMENT TO RULES COMMITTEE
PRINT 115–79
OFFERED BY MR. HUFFMAN OF CALIFORNIA

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 de-
termination, 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 sub-
section (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 le-
thal takings under this subsection shall be humane
and shall be implemented by agencies or qualified in-
individually 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, stur-
geon, or lamprey below Bonneville Dam,
including the area within one-half mile of
the confluence with the mainstem Colum-
bia 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 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)).