

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:

1 SEC. 2. SENSE OF CONGRESS.

2 It is the sense of the Congress that—

3 (1) prevention of predation by sea lions, recovery of salmonid stocks listed under the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.), and
5 prevention of the future listings of fish stocks in the
6 Columbia River under such Act are a vital priority;
7 and
8

9 (2) the Federal Government should continue to
10 fund lethal and nonlethal removal of sea lions as
11 well as deterrence measures for preventing such pre-
12 dation.

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

5 Section 120(f) of the Marine Mammal Protection Act
6 of 1972 (16 U.S.C. 1389(f)) is amended to read as fol-
7 lows:

8 “(f) TEMPORARY MARINE MAMMAL REMOVAL AU-
9 THORITY ON THE WATERS OF THE COLUMBIA RIVER AND
10 ITS TRIBUTARIES.—

11 “(1) DETERMINATION OF NON-LETHAL ALTER-
12 NATIVE MEASURES.—

13 “(A) IN GENERAL.—The Secretary shall
14 determine whether nonlethal alternative meas-
15 ures to reduce sea lion predation of salmonid
16 stocks in the waters of the Columbia River or
17 its tributaries listed as threatened species or en-
18 dangered species under the Endangered Species
19 Act of 1973 (16 U.S.C. 1531 et seq.) ade-
20 quately protect the salmonid stocks from Cali-
21 fornia sea lion predation.

22 “(B) DEADLINE.—The Secretary shall
23 make such determination not later than 90 days
24 after the date of the enactment of this sub-
25 section.

1 “(C) PUBLIC COMMENT.—The Secretary
2 shall, within such 90-day period, provide up to
3 30 days for the submission of public comments
4 on the determination.

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

8 “(2) REMOVAL AUTHORITY.—In addition to
9 other authority under this section, and notwith-
10 standing any other provision of this Act, the Sec-
11 retary may issue a permit to an eligible entity, as
12 defined in paragraph (9), to authorize the inten-
13 tional lethal taking on the waters of the Columbia
14 River and its tributaries of individually identifiable
15 sea lions that are—

16 “(A) part of a population that is not cat-
17 egorized under this Act as depleted; and

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

21 “(3) PERMIT PROCESS.—

22 “(A) IN GENERAL.—An eligible entity may
23 apply to the Secretary for a permit under this
24 subsection.

1 “(B) DEADLINE FOR CONSIDERATION OF
2 APPLICATION.—The timelines and procedures
3 described in subsection (c) shall apply to appli-
4 cations for permits under this subsection in the
5 same manner such timelines apply to applica-
6 tions under subsection (b).

7 “(C) COORDINATION.—The Secretary shall
8 establish procedures for coordination among eli-
9 gible entities, including application procedures
10 and timelines, geographic and species-specific
11 considerations, and monitoring and periodic re-
12 view.

13 “(D) DURATION OF PERMIT.—A permit
14 under this subsection shall be effective for not
15 more than 1 year.

16 “(4) LIMITATION ON TAKE FOR SPECIES WITH
17 UNKNOWN POTENTIAL BIOLOGICAL REMOVAL LEV-
18 ELS.—No lethal taking of sea lions may be author-
19 ized under this section if the potential biological re-
20 moval level is unknown.

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

23 “(A) DETERMINATION REQUIRED.—A sea
24 lion may not be taken under a permit under

1 this subsection unless the Secretary has deter-
2 mined that—

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

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

10 “(B) CONSULTATION.—In making such de-
11 termination, the permit holder shall consult
12 with the National Marine Fisheries Service, and
13 may consult with any other Federal agency or
14 eligible entity as appropriate.

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

23 “(7) QUALIFIED INDIVIDUALS.—Intentional le-
24 thal takings under this subsection shall be humane
25 and shall be implemented by agencies or qualified in-

1 individuals described in subsection (c)(4), or by indi-
2 viduals employed by the eligible entities described in
3 paragraph (9).

4 “(8) SUSPENSION OF PERMITTING AUTHOR-
5 ITY.—If, 5 years after the date of the enactment of
6 the Endangered Salmon and Fisheries Predation
7 Prevention Act, the Secretary, after consulting with
8 State and tribal fishery managers, determines that
9 lethal removal authority is no longer necessary to
10 protect salmonid and other fish species from sea lion
11 predation, the Secretary shall suspend the issuance
12 of permits under this subsection.

13 “(9) ELIGIBLE ENTITY DEFINED.—

14 “(A) IN GENERAL.—

15 “(i) DEFINITION.—In this subsection,
16 subject to subparagraph (B), the term ‘eli-
17 gible entity’ means—

18 “(I) with respect to removal in
19 the mainstem of the Columbia River
20 and its tributaries, the State of Wash-
21 ington, the State of Oregon, and the
22 State of Idaho;

23 “(II) with respect to removal in
24 the mainstem of the Columbia River
25 and its tributaries, the Nez Perce

1 Tribe, the Confederated Tribes of the
2 Umatilla Indian Reservation, the Con-
3 federated Tribes of the Warm Springs
4 Reservation of Oregon, the Confed-
5 erated Tribes and Bands of the
6 Yakama Nation, and the Columbia
7 River Intertribal Fish Commission;
8 and

9 “(ii) DELEGATION AUTHORITY.—The
10 Secretary may allow an eligible entity de-
11 scribed in clause (i)(II) to delegate its au-
12 thority under a permit under this sub-
13 section to any entity described in clause
14 (i)(II).

15 “(B) ADDITIONAL ELIGIBILITY.—

16 “(i) IN GENERAL.—Subject to the ap-
17 proval of the Secretary and in consultation
18 with the Indian Tribes in subparagraph
19 (A)(i)(II)—

20 “(I) the State of Washington
21 may enter into a memorandum of un-
22 derstanding with the Cowlitz Indian
23 Tribe for deterrence and removal of
24 sea lions on the Cowlitz River.

1 “(II) the State of Oregon may
2 enter into a memorandum of under-
3 standing with the Confederated Tribes
4 of the Grand Ronde Community of
5 Oregon and the Confederated Tribes
6 of Siletz Indians of Oregon for deter-
7 rence and removal of sea lions on the
8 Willamette River.

9 “(ii) CONSIDERATIONS.—In deter-
10 mining eligibility under this subparagraph,
11 the Secretary shall consider the capacity of
12 each Indian tribe to manage wildlife to
13 meet the requirements of this Act.

14 “(10) SEA LIONS DEEMED INDIVIDUALLY IDEN-
15 TIFIABLE.—Sea lions that have been observed in a
16 discrete section of the Columbia River are deemed to
17 be individually identifiable and to be having a sig-
18 nificant negative impact on salmonid species or stur-
19 geon species stocks that migrate through or spawn
20 in a protected area of the Columbia River Basin,
21 within the meaning of paragraph (2).

22 “(11) ADDITIONAL DEFINITIONS.—In this sub-
23 section—

24 “(A) the term ‘discrete section of the Co-
25 lumbia River’ means—

1 “(i) the area within 1 mile down-
2 stream of Bonneville Dam;

3 “(ii) the area within 1.5 miles down-
4 stream of Willamette Falls;

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

7 “(iv) another area, 0.5 miles or less in
8 length within a protected area, designated
9 by the Secretary, as the Secretary deter-
10 mines necessary to protect threatened or
11 endangered species or a species that the
12 Secretary determines may become threat-
13 ened or endangered without additional pro-
14 tections; and

15 “(B) the term ‘protected area’ means—

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

20 “(ii) spawning grounds for sturgeon
21 within the mainstem Columbia River be-
22 tween river mile 138 and Bonneville Dam;
23 or

24 “(iii) a tributary spawning and
25 rearing habitat for salmon, steelhead, stur-

1 geon, or lamprey below Bonneville Dam,
2 including the area within one-half mile of
3 the confluence with the mainstem Colum-
4 bia River.

5 “(12) DEFINITION.—In this subsection, the
6 term ‘Indian tribe’ has the meaning given such term
7 in section 4 of the Indian Self-Determination and
8 Education Assistance Act (25 U.S.C. 5304).”.

9 **SEC. 4. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-**
10 **DIAN TRIBES.**

11 Nothing in this Act or the amendments made by this
12 Act shall be construed to affect or modify any treaty or
13 other right of an Indian Tribe (as defined in section 4
14 of the Indian Self-Determination and Education Assist-
15 ance Act (25 U.S.C. 5304)).

