

115TH CONGRESS  
2D SESSION

# S. 3315

To allow for the taking of pinnipeds on the Columbia River and its tributaries to protect endangered and threatened species of salmon and other non-listed fish species.

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## IN THE SENATE OF THE UNITED STATES

JULY 31, 2018

Mr. MERKLEY (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Predation Reduction  
5 of Salmon Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) prevention of predation by sea lions, recov-  
9 ery of salmonid stocks listed under the Endangered

1 Species Act of 1973 (16 U.S.C. 1531 et seq.), and  
2 prevention of the future listings of fish stocks in the  
3 Columbia River under such Act are vital priorities;  
4 and

5 (2) the Federal Government should continue to  
6 fund lethal and nonlethal removal of sea lions as  
7 well as measures for preventing such predation.

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

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

15 “(f) TEMPORARY MARINE MAMMAL REMOVAL AU-  
16 THORITY ON THE WATERS OF THE COLUMBIA RIVER AND  
17 ITS TRIBUTARIES.—

18 “(1) REMOVAL AUTHORITY.—Notwithstanding  
19 any other provision of this Act, the Secretary may  
20 issue a permit to an eligible entity to authorize the  
21 intentional lethal taking on the waters of the Colum-  
22 bia River and its tributaries of individually identifi-  
23 able sea lions that are part of a population or stock  
24 that is not categorized under this Act as depleted or  
25 strategic for the purpose of protecting—

1           “(A) species of salmon, steelhead, or  
2 eulachon that are listed as endangered species  
3 or threatened species under the Endangered  
4 Species Act of 1973 (16 U.S.C. 1531 et seq.);  
5 and

6           “(B) species of lamprey or sturgeon that  
7 are not listed as endangered or threatened  
8 under such Act but are listed as a species of  
9 concern.

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 timelines and procedures  
16 described in subsection (c) shall apply to appli-  
17 cations for permits under this subsection in the  
18 same manner such timelines apply to applica-  
19 tions under subsection (b).

20           “(C) COORDINATION.—The Secretary shall  
21 establish procedures for coordination among eli-  
22 gible entities, including issuance of permits and  
23 permit requirements, application procedures  
24 and timelines, geographic and species-specific

1           considerations, and monitoring and periodic re-  
2           view.

3           “(D) DURATION OF PERMIT.—A permit  
4           under this subsection shall be effective for a pe-  
5           riod of not more than 5 years and may be re-  
6           newed by the Secretary.

7           “(E) COORDINATION WITH OTHER  
8           TRIBES.—To the extent practicable, prior to  
9           issuing a permit under this subsection, the Sec-  
10          retary shall consult with all Indian tribes with  
11          legal or historic interests in the protection of  
12          salmonid species in the area of the Columbia  
13          River and its tributaries described in paragraph  
14          (8).

15          “(3) LIMITATIONS ON ANNUAL TAKINGS.—The  
16          process for determining limitations on annual take  
17          of sea lions shall follow the process established  
18          under subsection (c), and the cumulative number of  
19          sea lions authorized to be taken each year under all  
20          permits in effect under this subsection shall not ex-  
21          ceed 10 percent of the annual potential biological re-  
22          moval level for sea lions.

23          “(4) REQUIREMENTS OF TAKINGS.—

24                  “(A) IN GENERAL.—Intentional lethal  
25                  takings under this subsection shall—

1           “(i) be humane within the meaning of  
2           such term under section 3(4);

3           “(ii) use capture, handling, transpor-  
4           tation, and euthanasia protocols that are  
5           based on standards propagated by an In-  
6           stitutional Animal Care and Use Com-  
7           mittee;

8           “(iii) not involve the use of firearms,  
9           as defined in section 921(a) of title 18,  
10          United States Code, except as a form of  
11          secondary euthanasia; and

12          “(iv) be implemented by agencies or  
13          qualified individuals described in sub-  
14          section (c)(4), or by individuals employed  
15          by the eligible entities described in para-  
16          graph (6).

17          “(B) REMAINS.—The remains of any sea  
18          lion taken and euthanized pursuant to this sub-  
19          section shall, upon request of an Indian tribe  
20          with a legal or historic interest in the protection  
21          of salmonid species in the area of the Columbia  
22          River and its tributaries described in paragraph  
23          (8) and that has a demonstrated historic cul-  
24          tural practice of using sea lion remains in tribal  
25          cultural practices, and in accord with proce-

1           dures established by the Secretary, be distrib-  
2           uted to that tribe.

3           “(5) SUSPENSION OF PERMITTING AUTHOR-  
4           ITY.—If, 5 years after the date of the enactment of  
5           the Predation Reduction of Salmon Act, the Sec-  
6           retary, after consulting with State and tribal fishery  
7           managers, determines that lethal removal authority  
8           is no longer necessary to protect the species de-  
9           scribed in paragraph (1) from sea lion predation, the  
10          Secretary shall suspend the issuance of permits  
11          under this subsection.

12          “(6) ELIGIBLE ENTITY DEFINED.—

13                 “(A) IN GENERAL.—In this subsection,  
14                 subject to subparagraph (B), the term ‘eligible  
15                 entity’ means the State of Washington, the  
16                 State of Oregon, and the State of Idaho.

17                 “(B) MEMORANDA OF UNDERSTANDING  
18                 FOR ADDITIONAL ELIGIBILITY.—

19                         “(i) IN GENERAL.—An eligible entity  
20                         described in subparagraph (A) may enter  
21                         into a memorandum of understanding with  
22                         any Indian tribe with legal or historic in-  
23                         terests in the protection of the species de-  
24                         scribed in paragraph (1) in the area of the  
25                         Columbia River and its tributaries de-

1           scribed in paragraph (8) for deterrence  
2           and removal of sea lions.

3           “(ii) CONSIDERATIONS.—In deter-  
4           mining eligibility under this subparagraph,  
5           the Secretary shall consider the capacity of  
6           each Indian tribe to manage wildlife to  
7           meet the requirements of this Act.

8           “(7) INDIVIDUAL EXCEPTION.—For purposes of  
9           this subsection, any sea lion located between Colum-  
10          bia River river mile 112 and the Bonneville Dam, or  
11          in any tributary to the Columbia River with a con-  
12          fluence below the Bonneville Dam that includes  
13          spawning habitat of threatened or endangered salm-  
14          on or steelhead is deemed to be individually identifi-  
15          able.

16          “(8) SIGNIFICANT NEGATIVE IMPACT EXCEP-  
17          TION.—For purposes of this subsection, any sea lion  
18          located between Columbia River river mile 112 and  
19          the Bonneville Dam, or in any tributary to the Co-  
20          lumbia River with a confluence below Bonneville  
21          Dam that includes spawning habitat of threatened  
22          or endangered salmon or steelhead is deemed to be  
23          having a significant negative impact on the decline  
24          or recovery of salmonid fishery stocks described in  
25          subsection (b)(1).

1           “(9) DEFINITION.—In this subsection, the term  
2           ‘Indian tribe’ has the meaning given such term in  
3           section 4 of the Indian Self-Determination and Edu-  
4           cation Assistance Act (25 U.S.C. 5304).”.

5   **SEC. 4. TREATY RIGHTS OF FEDERALLY RECOGNIZED IN-**  
6                           **DIAN TRIBES.**

7           Nothing in this Act or the amendments made by this  
8   Act shall be construed to enlarge, affect, or modify any  
9   treaty or other right of an Indian tribe (as defined in sec-  
10   tion 4 of the Indian Self-Determination and Education As-  
11   sistance Act (25 U.S.C. 5304)), except as expressly set  
12   forth in this Act or the amendments made by this Act.

13   **SEC. 5. REPORT.**

14           Not later than 180 days after the date of enactment  
15   of this Act, the Secretary of the Interior shall study and  
16   report to Congress on the potential effects of the lethal  
17   taking of sea lions on the recovery of salmonid stocks in  
18   the waters of the Columbia River and the tributaries of  
19   the Columbia River.

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