

109TH CONGRESS  
2D SESSION

# H. R. 6241

To amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2006

Mr. HASTINGS of Washington (for himself, Mr. BAIRD, Mr. WALDEN of Oregon, and Mr. DICKS) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Marine Mammal Protection Act of 1972 to reduce predation on endangered Columbia River salmon, 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  
5 Predation Prevention Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) There are 13 groups of salmon and  
9 steelhead that are listed as threatened species or en-

1       dangered species under the Endangered Species Act  
2       of 1973 that migrate through the lower Columbia  
3       River.

4               (2) The people of the Northwest United States  
5       are united in their desire to restore healthy salmon  
6       and steelhead runs, as they are integral to the re-  
7       gion’s culture and economy.

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

10              (4) Federal, State, and tribal governments have  
11       spent billions of dollars to assist the recovery of Co-  
12       lumbia River salmon and steelhead populations.

13              (5) One of the factors impacting salmonid pop-  
14       ulations is increased predation by marine mammals,  
15       including California sea lions.

16              (6) The population of California sea lions has  
17       increased 6-fold over the last 3 decades, and is cur-  
18       rently greater than 300,000.

19              (7) In recent years, over 1,000 California sea  
20       lions have been entering the lower 205 miles of the  
21       Columbia River up to Miller Island during the peak  
22       spring salmonid run before returning to the Cali-  
23       fornia coast to mate.

1           (8) The percentage of the spring salmonid run  
2 that has been eaten or killed by California sea lions  
3 at Bonneville dam has increased 7-fold since 2002.

4           (9) In recent years, California sea lions have  
5 with greater frequency congregated near Bonneville  
6 dam and have entered the fish ladders.

7           (10) Some of these California sea lions have not  
8 been responsive to extensive hazing methods em-  
9 ployed near Bonneville dam to discourage this be-  
10 havior.

11           (11) The process established under the 1994  
12 amendment to the Marine Mammal Protection Act  
13 of 1972 to address aggressive sea lion behavior is  
14 protracted and will not work in a timely enough  
15 manner to protect threatened and endangered  
16 salmonids in the near term.

17           (12) In the interest of protecting Columbia  
18 River threatened and endangered salmonids, a tem-  
19 porary expedited procedure is urgently needed.

20 **SEC. 3. TAKING OF CALIFORNIA SEA LIONS ON THE COLUM-**  
21 **BIA RIVER OR ITS TRIBUTARIES TO PROTECT**  
22 **ENDANGERED AND THREATENED SPECIES OF**  
23 **SALMON.**

24           (a) AMENDMENT TO MARINE MAMMAL PROTECTION  
25 ACT OF 1972.—Section 120 of the Marine Mammal Pro-

1 tention Act of 1972 (16 U.S.C. 1389) is amended by add-  
2 ing at the end the following:

3 “(k) TEMPORARY MARINE MAMMAL REMOVAL AU-  
4 THORITY ON THE WATERS OF THE COLUMBIA RIVER OR  
5 ITS TRIBUTARIES.—

6 “(1) IN GENERAL.—In addition to other au-  
7 thority under this section, and notwithstanding any  
8 other provision of this title, the Secretary may issue  
9 a permit to an eligible entity authorizing the inten-  
10 tional lethal taking on the waters of the Columbia  
11 River or its tributaries of up to 10 California sea  
12 lions, if the Secretary determines under paragraph  
13 (9) that alternative measures to reduce sea lion pre-  
14 dation on salmonid stocks in such waters listed as  
15 threatened species or endangered species under the  
16 Endangered Species Act of 1973 (16 U.S.C. 1531 et  
17 seq.) do not adequately protect the salmonid stocks  
18 from California sea lion predation.

19 “(2) ELIGIBLE ENTITY DEFINED.—In this sub-  
20 section, the term ‘eligible entity’ means each of the  
21 State of Washington, the State of Oregon, the Nez  
22 Perce Tribe, the Confederated Tribes of the  
23 Umatilla Indian Reservation, the Confederated  
24 Tribes of the Warm Springs Reservation of Oregon,

1 and the Confederated Tribes and Bands of the  
2 Yakama Nation.

3 “(3) DELEGATION OF PERMIT AUTHORITY.—An  
4 eligible entity may designate an appropriate inter-  
5 state or intertribal fish commission to administer its  
6 permit authority under this subsection.

7 “(4) CONSULTATION.—In issuing a permit to  
8 an eligible entity under this subsection, the Sec-  
9 retary shall—

10 “(A) consult with other eligible entities  
11 and other such entities as the Secretary con-  
12 siders appropriate, including the Corps of Engi-  
13 neers; and

14 “(B) consider the number of other permits  
15 issued to other eligible entities in the same time  
16 period.

17 “(5) DURATION OF PERMITS.—A permit under  
18 this subsection shall be effective for no more than  
19 one year after the date it is issued.

20 “(6) AUTHORITY TO ISSUE MULTIPLE PER-  
21 MITS.—The Secretary may issue more than one per-  
22 mit under this subsection to an eligible entity. No  
23 more than one permit may be utilized in any 14-day  
24 period by the same eligible entity.

1           “(7) LIMITATION ON ANNUAL TAKINGS.—The  
2 cumulative number of California sea lions authorized  
3 to be taken each year under all permits in effect  
4 under this subsection shall not exceed one percent of  
5 the annual potential biological removal level of Cali-  
6 fornia sea lions.

7           “(8) LIMITATION ON ANIMALS AUTHORIZED TO  
8 BE TAKEN.—

9           “(A) DETERMINATION REQUIRED.—A  
10 California sea lion may not be taken under a  
11 permit under this subsection unless the permit  
12 holder has determined that—

13                   “(i) such sea lion has preyed upon  
14 salmonid stocks in the Columbia River;  
15 and

16                   “(ii) with respect to such sea lion,  
17 nonlethal alternative measures to prevent  
18 preying on salmonid stocks have in general  
19 not been effective.

20           “(B) CONSULTATION.—In making such de-  
21 termination, the permit holder may consult with  
22 any other eligible entity or Federal agency.

23           “(9) DETERMINATION OF ALTERNATIVE MEAS-  
24 URES.—

1           “(A) DEADLINE.—The Secretary shall de-  
2           termine whether alternative measures to reduce  
3           sea lion predation on salmonid stocks in the wa-  
4           ters of the Columbia River or its tributaries  
5           listed as threatened species or endangered spe-  
6           cies under the Endangered Species Act of 1973  
7           (16 U.S.C. 1531 et seq.) adequately protect the  
8           salmonid stocks from California sea lion preda-  
9           tion, by not later than 90 days after the date  
10          of the enactment of this subsection.

11          “(B) PUBLIC COMMENT.—The Secretary  
12          shall, within such 90-day period, provide up to  
13          30 days for the submission of public comments  
14          on the determination.

15          “(C) FEDERAL REGISTER.—The Secretary  
16          shall publish the determination in the Federal  
17          Register.

18          “(10) DEADLINE FOR CONSIDERATION OF AP-  
19          PLICATION.—The Secretary shall respond to an ap-  
20          plication for a permit under this subsection by not  
21          later than 30 days after receiving the application.

22          “(11) NEPA.—Section 102(2)(C) of the Na-  
23          tional Environmental Policy Act of 1969 (42 U.S.C.  
24          4332(2)(C)) shall not apply with respect to this sub-

1 section and the issuance of any permit under this  
2 subsection.

3 “(12) TERMINATION OF PERMITTING AUTHOR-  
4 ITY.—The Secretary may not issue any permit under  
5 this subsection after the end of the 3-year period be-  
6 ginning on the date of the enactment of this sub-  
7 section.”.

8 (b) RECOMMENDED LEGISLATION.—Not later than  
9 one year after the date of the enactment of this Act, the  
10 Secretary of Commerce shall submit to the Congress a re-  
11 port on the need for additional legislation to amend the  
12 Marine Mammal Protection Act of 1972 to address the  
13 general issue of predation by marine mammals on fish spe-  
14 cies listed as threatened species or endangered species  
15 under the Endangered Species Act of 1973 (16 U.S.C.  
16 1531 et seq.).

17 **SEC. 4. SENSE OF CONGRESS.**

18 It is the sense of the Congress that—

19 (1) nonlethal means of preventing predation of  
20 listed salmonid stocks in the Columbia River by  
21 California sea lions is preferable to lethal means;  
22 and



1           (2) the Federal Government should continue to  
2 fund, research, and support effective nonlethal alter-  
3 native measures for preventing such predation.

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