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Calendar No. 365

109TH CONGRESS *2nd Session*	SENATE	REPORT 109–217

UNITED STATES-RUSSIA POLAR BEAR CONSERVATION AND MANAGEMENT ACT OF 2005

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 2013



FEBRUARY 27, 2006.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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109TH CONGRESS, *2nd Session* | SENATE | REPORT 109–217

UNITED STATES-RUSSIA POLAR BEAR CONSERVATION AND MANAGEMENT ACT OF 2005

FEBRUARY 27, 2006.—Ordered to be printed

Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, submitted the following

R E P O R T

[To accompany S. 2013]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2013) to amend the Marine Mammal Protection Act of 1972 to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 2013 is to provide the necessary implementing legislation for the United States to enforce the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population (Polar Bear Treaty), a bilateral agreement between the United States and Russia aimed at assuring the long-term, science-based conservation of the Alaska-Chukotka polar bear population, and the regulation of its use for subsistence purposes by native people.

BACKGROUND AND NEEDS

On November 13, 1973, the Agreement on the Conservation of Polar Bears (1973 Agreement) was agreed to by countries with wild polar bear populations. This was the first step in the international conservation of polar bears. The 1973 Agreement is a multilateral treaty to which the United States and Russia are parties. The other parties are Norway, Canada, and Denmark. The 1973 Agree-

ment provides authority for a subsistence harvest of polar bears and provides for habitat conservation.

The Polar Bear Treaty, signed by the United States and Russia in 2000, provides legal protections for the Alaska-Chukotka polar bear population beyond those found in the 1973 Agreement. Illegal harvest of polar bears in Russia is significant and at levels that in the past caused population depletion. The Polar Bear Treaty would prohibit any taking of polar bears from the population that is inconsistent with its terms or the terms of the 1973 Agreement, and includes binding harvest limits. The Polar Bear Treaty also establishes a U.S.-Russia Polar Bear Commission (Commission) to consider scientific information on polar bears and their habitat, set annual limits on harvests, and recommend related conservation measures to the parties. Annual harvest limits will be equally divided between the United States and Russia. In addition, the Polar Bear Treaty provides for greater data collection, analysis, and sharing of information on the status of this polar bear population.

The Senate Foreign Relations Committee held a hearing on the Polar Bear Treaty on June 17, 2003, and favorably reported the Treaty at its Executive Session held on July 23, 2003. The full Senate agreed to the resolution of advice and consent on the treaty on July 31, 2003. On November 14, 2005 the Senate Commerce, Science, and Transportation Committee held a full Committee hearing to discuss implementing legislation for the Polar Bear Treaty, and the need for a regulatory framework in both Russia and Alaska to oversee the shared polar bear population.

Implementing legislation is required for the United States to ratify and implement the Polar Bear Treaty. The bill, S. 2013, would provide the necessary authorities, including the authority to appoint representatives from the United States to the Commission, and the authority to enforce the agreement.

The Native people of Alaska and Russia play an essential role in the conservation of polar bears and will continue to be at the forefront of decision making with implementation of the Polar Bear Treaty. The work of the Nanuuq Commission, which was formed in 1994 to represent the Native hunters and villages in North and Northwest Alaska in the negotiations on the Polar Bear Treaty, provide for the collection of samples from polar bears and research on the migration and denning patterns of the shared population of polar bears. Reliable biological information, including scientific data and traditional knowledge of Native people, will assist in the development of an effective strategy for the conservation and management of the Alaska-Chukotka polar bear population as contemplated under the Treaty.

Russia has already ratified the Polar Bear Treaty, and has put in place the appropriate regulatory framework for its implementation. Implementation will be through the Russian Ministry of Natural Resources. Russia is prepared to appoint Commissioners once the United States has ratified the agreement.

SUMMARY OF PROVISIONS

The bill, S. 2013, would amend the Marine Mammal Protection Act of 1972 (MMPA) to implement the Agreement between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of

the Alaska-Chukotka Polar Bear Population. The implementing provisions of the bill would become title V of the MMPA.

The bill would prohibit the possession, import, export, transport, sale, receipt, acquisition, or purchase of any polar bear (or any part or product thereof) that is taken in violation of the Polar Bear Treaty, and provide enforcement authority for violations.

The bill also would establish a process by which one representative of the United States government and one representative of the Native people of Alaska would be appointed to serve on the bi-national Commission established by the Polar Bear Treaty. The Commission would determine annual take limits and the adoption of other measures to restrict the taking of polar bears for subsistence purposes. The Commission would also provide a forum for considering scientific information on polar bears and polar bear habitat, and would provide recommendations for relevant conservation measures.

LEGISLATIVE HISTORY

On November 14, 2005, the Committee held a hearing to examine the status of the Polar Bear Treaty and on necessary implementing legislation. S. 2013 was introduced on November 15, 2005, by Committee Chairman Ted Stevens (R-AK) (and cosponsored by Committee Co-Chairman Senator Daniel Inouye (D-HI) and Senator Lisa Murkowski (R-AK)), and referred to the Senate Committee on Commerce, Science, and Transportation. On November 17, 2005, the Committee considered the bill in open Executive Session. Senator Stevens offered S. 2013 as introduced, and, without objection, ordered S. 2013 reported without amendment.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 10, 2006.

Hon. TED STEVENS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2013, the United States-Russia Polar Bear Conservation and Management Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DONALD B. MARRON,
Acting Director

Enclosure.

S. 2013—United States-Russia Polar Bear Conservation and Management Act of 2005

Summary: S. 2013 would direct the U.S. Fish and Wildlife Service (USFWS) to implement the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed on October 16, 2002. For this purpose, the bill would authorize the appropriation of $4 million for each of fiscal years 2006 through 2010. S. 2013 also would establish criminal fines and civil penalties to be imposed on anyone who violates prohibitions under the bill against transactions involving polar bears or their organs.

Assuming appropriation of the authorized amounts, CBO estimates that carrying out S. 2013 would cost $1 million in fiscal year 2006 and $16 million over the 2006–2010 period. Enacting the bill would result in additional revenues (and associated direct spending) from civil and criminal fines as well as new direct spending, but we estimate that such amounts would be minimal.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that, because S. 2013 would implement the U.S.-Russia Polar Bear Treaty, it falls within that exclusion. CBO has thus not reviewed the bill for the presence of mandates.

Estimated costs to the Federal Government: The estimated budgetary impact of S. 2013 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	4	4	4	4	4
Estimated Outlays	1	3	4	4	4

Basis of estimate: For this estimate, CBO assumes that S. 2013 will be enacted during fiscal year 2006 and that the amounts authorized will be appropriated for each year. Estimated outlays are based on historical spending patterns for similar programs of the USFWS.

S. 2013 contains fines and product-forfeiture provisions that are similar to those imposed under the Lacey Act, which prohibits sales, imports, and other transactions involving endangered species. Enacting the bill could thus affect revenues from civil and criminal fines. CBO estimates, however, that any increase in revenues would be less than $500,000 annually. Moreover, such changes would be offset by increases in direct spending from the Crime Victims Fund (where criminal fines are deposited) or the resource management account of the USFWS (where civil fines are deposited and used for rewards to informers and other program costs).

Intergovernmental and private-sector impact: Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of inter-

national treaty obligations. CBO has determined that because S. 2013 would implement the U.S.-Russia Polar Bear Treaty, it falls within that exclusion. CBO has thus not reviewed the bill for the presence of mandates.

Estimate prepared by: Federal Costs: Deborah Reis. Impact on State, Local, and Tribal Governments: Marjorie Mille. Impact on the Private Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 2013 as reported by the Committee would authorize appropriations to implement title V, the United States-Russia Polar Bear Conservation and Management Act of 2005, of the Marine Mammal Protection Act. The bill would have no regulatory impact on the Alaska Native subsistence harvest of polar bears.

ECONOMIC IMPACT

The bill, as reported, would provide authorization levels of $3,000,000 for the Secretary of the Interior for each of fiscal years 2006 through 2010, $500,000 is authorized for the Commission for each of fiscal years 2006 through 2010, $500,000 is authorized for the Alaskan Cooperative Management Program for each of fiscal years 2006 through 2010 to carry out this title and the agreement in Alaska. These funding levels are not expected to have an inflationary impact on the Nation's economy.

PRIVACY

The reported bill would have little, if any, impact on the personal privacy of U.S. citizens.

PAPERWORK

The reported bill would not increase paperwork requirements for the private sector.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section sets forth the short title of the bill, "The United States-Russia Polar Bear Conservation and Management Act of 2005."

Section 2. Amendment of Marine Mammal Protection Act of 1972

This section would amend the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) by adding a title V at the end containing the following sections:

Section 501. Definitions

This section defines the following terms used in the new title:

• AGREEMENT.—The term "agreement" means the agreement between the governments of the United States and Russia on the shared population of polar bears.

• ALASKA NANUUQ COMMISSION.—The term "Alaska Nanuuq Commission" means an entity that represents the villages of Alaska that take polar bears for subsistence purposes.

• IMPORT.—The term "import" means to land, bring into, or introduce into the United States.

• NATIVE PEOPLE.—The term "Native People" has the meaning given the term in the Agreement.

• POLAR BEAR PART OR PRODUCT.—The term "polar bear part or product" means any part of a polar bear, including the gall bladder.

• SECRETARY—The term "Secretary" means Secretary of the Interior.

• TAKING.—The term "taking" means hunting, capturing, or killing a polar bear.

• UNITED STATES/RUSSIA POLAR BEAR COMMISSION.—The term "United States/Russia Polar Bear Commission" means the bi-national commission established under article 8 of the Agreement.

• UNITED STATES SECTION.—The term "United States Section" means the commissioners appointed by the President under section 505.

Section 502. Prohibitions

This section states that it is unlawful for any person to take, possess, or trade any polar bear in violation of the Agreement. This includes importing, exporting, possessing, transporting, selling, receiving, acquiring, purchasing, exchanging, bartering, or offering to sell, exchange, or barter for any polar bear or any part or product of a polar bear.

Exceptions would be made for government officials specifically, forensic testing, or any other law enforcement purpose.

Section 503. Administration and enforcement

This section provides that the Secretary of the Interior, acting through the United States Fish and Wildlife Service, would implement, enforce, and administer the provisions of the Agreement on behalf of the United States. The Secretary would be required to consult with the Secretary of State, the Marine Mammal Commission, and the Alaska Nanuuq Commission on matters involving the implementation of the Agreement.

FORFEITURE.—A person or entity in possession of a polar bear or parts of a polar bear found to be in violation will be subject to having the polar bear seized along with any equipment involved in the violation. This includes traps, guns, vehicles, vessels, aircraft or other means of transportation.

INSPECTION.—Any person authorized by the Secretary of the Interior, the Secretary of the Treasury, the Secretary of Homeland Security, or the Secretary of Commerce to enforce this title may detain, inspect, and seize any container, including the contents of the container, and all accompanying documents, upon importation or exportation of polar bears or polar bear parts.

APPLICABLE LAW.—All provisions of law relating to the seizure, forfeiture, and condemnation of property for violation of the customs laws or the proceeds from the sale of that property apply.

CIVIL PENALTIES.—A penalty of not more than $50,000 may be imposed by the Secretary for each violation.

CRIMINAL PENALTIES.—For a person who knowingly violates section 502, a fine of not more than $100,000 for each such violation, imprisonment not more than one year, or both may be imposed by the Secretary.

DISTRICT COURT JURISDICTION.—The United States district courts, including the courts specified in section 460 of title 28, United States Code, have jurisdiction over any action arising under this title. The United States District Court for the District of Alaska has exclusive original jurisdiction of any action arising under this title for any violation committed, or alleged to have been committed, in Alaska.

Section 504. Designation and appointment of members of the U.S. Section of the Commission and compensation

This section describes the appointment process and compensation for the members of the Commission. Two commissioners would be appointed by the President in consultation with the Secretary of Interior, Congressional leaders, and the Alaska Nanuuq Commission. Of the two appointees, one would be required to be an official of the Federal Government and the other would be required to be a representative of the Alaska Native people. Both must have practical knowledge of polar bears. The Commissioners would serve a four-year term at the pleasure of the President. Vacancies would be filled by the same process as described for original appointees. This section also provides for the appointment of alternate commissioners by the Secretary of Interior. The alternates would exercise all functions of an absent Commissioner. The alternates are eligible for reappointment by the President and may attend all meetings of the United States Section. Members of the U.S. Section will serve without compensation. Travel expenses and per diem is permitted.

Section 505. Votes taken by the U.S. Section on matters before the Commission

This section describes the voting process of the U.S. Section. The U.S. Section would vote on any issue before the Commission, but only if there is no disagreement between both U.S. Commissioners regarding the vote.

Section 506. Implementation of actions taken by Commission

This section directs the Secretary of the Interior to take all necessary actions to implement the decisions of the Commission. Within 60 days after the Secretary receives a notice of the Commission setting an annual taking limit, the Secretary would be required to publish the taking limit of Polar Bears in the Federal Register.

Section 507. Cooperative management agreement; Authority to delegate enforcement authority

This section allows the Secretary of the Interior, through the U.S. Fish and Wildlife Service, to share the management authority for the taking of polar bears with the Alaska Nanuuq Commission. For the Alaska Nanuuq Commission to be eligible for cooperative management authority it would be required to meet the following requirements:

• Enter into a cooperative agreement with the Secretary under section 119 of the title.

• Monitor the compliance with the title.

• Administer its co-management program in accordance with the title, the agreement, and the Agreement on the Conservation of Polar Bears, done at Oslo, Norway, November 15, 1973 (27 UST 3918; TIAS 8409).

Section 508. Application with other titles of Act

This section provides that the Secretary of the Interior's authority would be in addition to, and would not affect, the Secretary's authority under other titles of this Act or the Lacey Act.

Section 509. Authorization of appropriations

This section authorizes the appropriation, for each of fiscal years 2006 through 2010, of $3 million to the Secretary of the Interior, $500,000 to the Commission, and $500,000 to the Alaskan Cooperative Management Program to carry out this title and the Agreement in Alaska.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

MARINE MAMMAL PROTECTION ACT OF 1972

TITLE V—ALASKA-CHUKOTKA POLAR BEARS

SEC. 501. DEFINITIONS.

In this title:

(1) AGREEMENT.—The term "Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed at Washington, D.C., on October 16, 2000.

(2) ALASKA NANUUQ COMMISSION.—The term "Alaska Nanuuq Commission" means the Alaska Native entity, in existence on the date of enactment of this Act, that represents all villages in the State of Alaska that engage in the annual subsistence taking of polar bears from the Alaska-Chukotka population and any successor entity.

(3) IMPORT.—The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, without regard to whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(4) NATIVE PEOPLE.—The term "Native people" has the meaning given the term in the Agreement.

(5) POLAR BEAR PART OR PRODUCT.—The term "part or product of a polar bear" means any polar bear part or product, including the gall bile and gall bladder.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) TAKING.—The term "taking" means hunting, capturing, or killing a polar bear.

(8) UNITED STATES-RUSSIA POLAR BEAR COMMISSION.—The term "United States-Russia Polar Bear Commission" means the binational commission established under article 8 of the Agreement.

(9) UNITED STATES SECTION.—The term "United States Section" means the commissioners appointed by the President under section 505 of this title.

SEC. 502. PROHIBITIONS.

(a) IN GENERAL.—It is unlawful for any person—

(1) to take any polar bear in violation of the Agreement;

(2) to take any polar bear in violation of any annual taking limit or other restriction on the taking of polar bears that is adopted by the United States-Russia Polar Bear Commission pursuant to the Agreement;

(3) to import, export, possess, transport, sell, receive, acquire, purchase, exchange, barter, or offer to sell, exchange, or barter any polar bear, or any part or product of a polar bear, that is taken in violation of the Agreement or any limit or restriction on taking that is adopted by the United States-Russia Polar Bear Commission;

(4) to import, export, possess, transport, sell, receive, acquire, purchase, exchange, or barter, offer to sell, exchange, or barter, polar bear gall bile or a polar bear gall bladder;

(5) to attempt to commit, solicit another person to commit, or cause to be committed, any offense under this subsection; or

(6) to violate any regulation promulgated by the Secretary to implement any of the prohibitions established in this subsection.

(b) EXCEPTIONS.—For the purpose of forensic testing or any other law enforcement purpose, a government official may import a polar bear or any part or product of a polar bear.

SEC. 503. ADMINISTRATION AND ENFORCEMENT.

(a) IN GENERAL.—The Secretary, acting through the United States Fish and Wildlife Service, shall do all things necessary and appropriate, including the promulgation of regulations, to implement, enforce, and administer the provisions of the Agreement on behalf of the United States. The Secretary shall consult with the Secretary of State, the Marine Mammal Commission, and the Alaska Nanuuq Commission on matters involving the implementation of the Agreement. The Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency, any State agency, or the Alaska Nanuuq Commission for purposes of carrying out this title or the Agreement. Any person authorized by the Secretary under this subsection to enforce this title or the Agreement shall have the powers and authorities that are enumerated in section 6(b) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(b)).

(b) FORFEITURE.—

(1) REQUIREMENT.—

(A) IN GENERAL.—A polar bear, or any part or product of a polar bear, that is (or attempted to be) imported, exported, taken, possessed, transported, sold, received, acquired, purchased, exchanged, or bartered or offered for sale, exchange, or barter, or purchase, in violation of this title, shall be subject to seizure and forfeiture to the United States without any showing that may be required for assessment of a civil penalty or for criminal prosecution.

(B) EQUIPMENT.—Each gun, trap, net, or other equipment used, and any vessel, vehicle, aircraft, or other means of transportation used, to aid in the violation or attempted violation of this title shall be subject to forfeiture to the United States upon conviction of a criminal violation in accordance with subsection (e).

(2) INSPECTION.—

(A) IN GENERAL.—Any person authorized by the Secretary, the Secretary of the Treasury, the Secretary of Homeland Security, or the Secretary of Commerce to enforce this title may—

(i) detain and inspect any container, including the contents of the container, and all accompanying documents, upon importation or exportation of the container;

(ii) search and, if the container is found to contain a polar bear or part or product of a polar bear, seize the package, crate, or container, and any documentation associated with it, with or without a warrant.

(B) TREATMENT OF SEIZED MATERIALS.—

(i) IN GENERAL.—Except as provided in clause (ii), any polar bear, or any part or product of a polar bear, seized under this section shall be held by any person authorized by the Secretary, the Secretary of the Treasury, the Secretary of Homeland Security, or the Secretary of Commerce pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of the polar bear, part, or product, in accordance with this subsection.

(ii) BOND.—Subject to clause (iii), in lieu of holding a polar bear or any part or product of a polar bear described in clause (i), the Secretary may permit the owner to post a bond or other surety satisfactory to the Secretary.

(iii) DISPOSAL.—Upon forfeiture of any property to the United States under this subsection, or the abandonment or waiver of any claim to any such property, the property shall be disposed of by the Secretary in such a manner, consistent with the purposes of this title, as the Secretary shall by regulation prescribe.

(3) APPLICABLE LAW.—

(A) IN GENERAL.—Subject to subparagraph (B), the following provisions of law described in subparagraph (B) shall apply to all seizures and forfeitures carried out under this title:

(i) All provisions of law relating to the seizure, forfeiture, and condemnation of property for violation of the customs laws.

(ii) All provisions of law relating to the disposition of seized or forfeited property or the proceeds from the sale of that property.

(iii) All provisions of law relating to the remission or mitigation of that forfeiture.

(iv) Section 981 of title 18, United States Code.

(B) EXCEPTION.—All powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of Treasury shall, for the purpose of this title, be exercised or performed by—

(i) the Secretary or the Secretary's designee; or

(ii) such persons as the Secretary may designate.

(c) CIVIL PENALTIES.—

(1) PENALTIES.—

(A) IN GENERAL.—Any person who knowingly engages in conduct prohibited by section 502, or who in the exercise of due care should know that the person is engaging in conduct prohibited by section 502, may be assessed a civil penalty by the Secretary of not more than $50,000 for each violation.

(B) NOTICE AND OPPORTUNITY FOR HEARING.—No penalty may be assessed against a person under this paragraph unless the person is given notice and opportunity for a hearing with respect to the violation for which the penalty is assessed.

(C) SEPARATE OFFENSES.—Each violation shall be a separate offense.

(D) REMISSION AND MITIGATION.—A civil penalty assessed under this paragraph may be remitted or mitigated by the Secretary.

(E) CIVIL ACTION.—Upon any failure by a person to pay a civil penalty assessed under this paragraph—

(i) the Secretary may request the Attorney General to bring a civil action in the United States district court for any district in which the person is found, resides, or transacts business to collect the penalty; and

(ii) the court shall have jurisdiction to hear and decide any such action.

(F) STANDARD.—A court shall hear and sustain a civil action by the Secretary under subparagraph (E) if the civil action is supported by substantial evidence on the record considered as a whole.

(2) PROCEDURE.—

(A) IN GENERAL.—A hearing held during proceedings for the assessment of a civil penalty under paragraph (1) shall be conducted in accordance with section 554 of title 5, United States Code.

(B) SUBPOENAS.—The Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths.

(C) REIMBURSEMENT OF WITNESSES.—A witness summoned to appear in a proceeding under this paragraph shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

(D) CONTUMACY.—In case of contumacy or refusal to obey a subpoena served upon any person under this paragraph—

(i) the United States district court for any district in which the person is found, resides, or transacts business, upon application by the United States and after

notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary, to appear and produce documents before the Secretary, or both; and

(ii) any failure to obey such an order of the court may be punished by the court as a contempt of the court.

(d) CRIMINAL PENALTIES.—A person who knowingly violates section 502 shall be fined not more than $100,000 for each such violation, imprisoned not more than 1 year, or both.

(e) DISTRICT COURT JURISDICTION.—

(1) IN GENERAL.—The United States district courts, including the courts specified in section 460 of title 28, United States Code, shall have jurisdiction over any action arising under this title.

(2) ALASKAN CASES.—Notwithstanding paragraph (1), the United States District Court for the district of Alaska shall have exclusive original jurisdiction of any action arising under this title for any violation committed, or alleged to have been committed, in Alaska.

(f) OTHER ENFORCEMENT.—The importation or exportation of a polar bear, or any part or product of a polar bear, that is taken, possessed, transported, sold, received, acquired, purchased, exchanged, or bartered or offered for sale, exchange, or barter, or purchase, in violation of the Agreement or any limitation or restriction of the United States-Russia Polar Bear Commission shall be considered to be transportation of wildlife for the purpose of section 3(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3372(a)).

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to carry out this title and the Agreement.

(2) ORDINANCES AND REGULATIONS.—If necessary to carry out this title and the Agreement, and to improve compliance with the annual taking limit or other restriction on taking adopted by the United States-Russia Polar Bear Commission and implemented by the Secretary in accordance with this title, the Secretary may promulgate regulations that adopt any ordinance or regulation that restricts the taking of polar bears for subsistence purposes if the ordinance or regulation has been promulgated by the Alaska Nanuuq Commission.

(h) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

(i) SEVERABILITY.—If any provision of this title is, for any reason, found to be invalid by a court of competent jurisdiction, the judgment of the court—

(1) shall not affect, impair, or invalidate the remaining provisions of this title; and

(2) shall instead be confined in its operation to provision of the Act directly involved in the controversy in which the judgment is rendered.

SEC. 504. DESIGNATION AND APPOINTMENT OF MEMBERS OF THE UNITED STATES SECTION OF THE COMMISSION; COMPENSATION, TRAVEL EXPENSES, AND CLAIMS.

(a) DESIGNATION AND APPOINTMENT.—

(1) IN GENERAL.—The United States shall be represented on the United States-Russia Polar Bear Commission by 2 United States commissioners.

(2) APPOINTMENT.—The United States commissioners shall be appointed by the President, after taking into consideration the recommendations of—

(A) the Secretary;

(B) the Secretary of State;

(C) the Speaker of the House of Representatives and the President pro tempore of the Senate; and

(D) the Alaska Nanuuq Commission.

(3) QUALIFICATIONS.—With respect to the United States commissioners appointed under this subsection, in accordance with paragraph 2 of article 8 of the Agreement—

(A) 1 United States commissioner shall be an official of the Federal Government;

(B) 1 United States commissioner shall be a representative of the Native people of Alaska, and, in particular, the Native people for whom polar bears are an integral part of their culture; and

(C) both commissioners shall be knowledgeable of, or have expertise in, polar bears.

(4) SERVICE AND TERM.—Each United States commissioner shall serve—

(A) at the pleasure of the President; and

(B) for an initial 4-year term and such additional terms as the President shall determine.

(5) VACANCIES.—

(A) IN GENERAL.—Any individual appointed to fill a vacancy occurring before the expiration of any term of office of a United States commissioner shall be appointed for the remainder of that term.

(B) MANNER.—Any vacancy on the United States-Russia Polar Bear Commission shall be filled in the same manner as the original appointment.

(b) ALTERNATE COMMISSIONERS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Alaska Nanuuq Commission, shall designate an alternate commissioner for each member of the United States Section.

(2) DUTIES.—In the absence of a commissioner, an alternate commissioner may exercise all functions of the commissioner at any meetings of the United States-Russia Polar Bear Commission or of the United States Section.

(3) REAPPOINTMENT.—An alternate commissioner—

(A) shall be eligible for reappointment by the President; and

(B) may attend all meetings of the United States Section.

(c) DUTIES.—The members of the United States Section may carry out the functions and responsibilities described in article 8 of the Agreement in accordance with this title and the Agreement.

(d) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—A member of the United States Section shall serve without compensation.

(2) TRAVEL EXPENSES.—A member of the United States Section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the United States-Russia Polar Bear Commission.

(e) AGENCY DESIGNATION.—The United States Section shall, for the purpose of title 28, United States Code, relating to claims against the United States and tort claims procedure, be considered to be a Federal agency.

SEC. 505. VOTES TAKEN BY THE UNITED STATES SECTION ON MATTERS BEFORE THE COMMISSION.

In accordance with paragraph 3 of article 8 of the Agreement, the United States Section shall vote on any issue before the United States-Russia Polar Bear Commission only if there is no disagreement between the 2 United States commissioners regarding the vote.

SEC. 506. IMPLEMENTATION OF ACTIONS TAKEN BY THE COMMISSION.

(a) IN GENERAL.—The Secretary shall take all necessary and appropriate actions to implement the decisions and determinations of the United States-Russia Polar Bear Commission under paragraph 7 of article 8 of the Agreement.

(b) TAKING LIMITATION.—Not later than 60 days after the date on which the Secretary receives notice of the determination of the United States-Russia Polar Bear Commission of an annual taking limit, or of the adoption by the United States-Russia Polar Bear Commission of other restriction on the taking of polar bears for subsistence purposes, the Secretary shall publish a notice in the Federal Register announcing the determination or restriction.

SEC. 507. COOPERATIVE MANAGEMENT AGREEMENT; AUTHORITY TO DELEGATE ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—The Secretary, acting through the United States Fish and Wildlife Service, may share authority under this title for the management of the taking of polar bears for subsistence purposes with the Alaska Nanuuq Commission.

(b) DELEGATION.—To be eligible for the cooperative management authority described in subsection (a), the Alaska Nanuuq Commission—

(1) shall have an active cooperative agreement with the Secretary under section 119 of this title for the conservation of polar bears;

(2) shall meaningfully monitor compliance with this title and the Agreement by Alaska Natives; and

(3) shall administer its co-management program for polar bears in accordance with—

(A) this title;

(B) the Agreement; and

(C) the Agreement on the Conservation of Polar Bears, done at Oslo, November 15, 1973 (27 UST 3918; TIAS 8409).

SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.

(a) IN GENERAL.—The authority of the Secretary under this title is in addition to, and shall not affect the authority of the Secretary under, the other titles of this Act or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) or the exemption for Alaskan natives under section 101(b) of this Act.

(b) CERTAIN PROVISIONS INAPPLICABLE.—The provisions of titles I through IV of this Act do not apply with respect to the implementation, enforcement, or administration of this title.".

SEC. 509. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out the functions and responsibilities of the Secretary under this title and the Agreement $3,000,000 for each of fiscal years 2006 through 2010.

(b) COMMISSION.—There are authorized to be appropriated to the Secretary to carry out functions and responsibilities of the United States Section $500,000 for each of fiscal years 2006 through 2010.

(c) ALASKAN COOPERATIVE MANAGEMENT PROGRAM.—There are authorized to be appropriated to the Secretary to carry out this title and the Agreement in Alaska $500,000 for each of fiscal years 2006 through 2010.

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