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LEGISLATION FOR THE PROTECTION OF THE
ALASKA FUR SEAL HERD

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INTRODUCTION

The Fish and Wildlife Service of the Department of the Interior is responsible for the conservation and management of the Alaska fur-seal herd under the Fur Seal Act of February 26, 1944. A brief summary of some of the most important previous legislation on this subject is outlined here as background for the present law and the Provisional Fur Seal Agreement with Canada.

Immediately following the purchase of Alaska from Russia in 1867 fur-sealing operations were launched on the Pribilof Islands by various independent groups. These sealing activities continued notwithstanding an act of Congress, approved July 27, 1868, that made the killing of fur seals unlawful. On March 3, 1869 further legislation set aside the islands of St. Paul and St. George as a special reservation and prohibited any person from landing on those islands without the authority of the Treasury Department. It is estimated that 329,000 fur seals were killed in the years from 1867 to 1869.

Under an act of July 1, 1870, the Treasury Department was authorized by Congress to lease the exclusive right to take fur seals on the Pribilof Islands for a period of 20 years. Such a lease was granted to the Alaska Commercial Company beginning May 1, 1870, and a similar 20-year lease was granted to the North American Commercial Company for the period from 1890 to 1910.

In addition to the exploitation of the Alaska fur-seal herd by these lessees there developed, beginning in about 1879, another form of exploitation known as pelagic sealing, or the taking of seals at sea. As pelagic sealing increased in importance toward the latter part of the 19th century, the Alaska fur-seal herd was threatened with commercial extinction. A controversy arose between the United States and Great Britain over the seizure of a number of Canadian sealing vessels by this country, and over jurisdictional rights in the waters of Bering Sea. A treaty between the United States and Great Britain was signed on February 29, 1892, submitting the matter to an international Tribunal of Arbitration, which met in Paris in 1893. The restrictions on fur-sealing operations adopted by the Governments of the United States and Great Britain, as a result of the findings of this Tribunal, were inadequate, however, to stop the destruction of the Alaska fur-seal herd. An act approved by Congress on December 29, 1897, prohibited the killing of fur seals by

nationals of this country in waters off the North Pacific Ocean, but this did not affect pelagic sealing activities by the nationals of other countries.

Under the act of February 14, 1903, jurisdiction over the Alaska fur-seal herd was transferred by Congress from the Treasury Department to the Department of Commerce and Labor. On April 21, 1910, that portion of the law requiring the leasing of sealing rights on the Pribilof Islands was repealed by Congress and provision was made for the management of the Alaska fur seals and the administration of the Pribilof Islands by the Department of Commerce and Labor.

On July 7, 1911 the United States, Great Britain, Japan, and Russia entered into a convention for the preservation of fur seals and sea otters of the North Pacific Ocean which for the first time provided a sound basis for the protection of these animals. This convention, and the act of August 24, 1912, to give effect to the convention, remained in force until it was abrogated by Japan on October 23, 1940, effective as of October 23, 1941.

Responsibility for the management of the Alaska fur-seal herd and the administration of the Pribilof Islands was transferred from the Department of Commerce and Labor to the Department of Commerce by the act of Congress approved March 4, 1913. Jurisdiction of the herd and of the Pribilof Islands more recently was transferred from the Department of Commerce to the Department of the Interior, effective July 1, 1939, pursuant to the Act of April 3, 1939, and Reorganization Plan No. II.

Following the abrogation by Japan of the Fur-Seal Convention of July 7, 1911, a provisional fur-seal agreement was effected by an exchange of notes between the governments of the United States and the Dominion of Canada, signed by the two countries on December 8, 1942 and December 19, 1942, respectively. By a further exchange of notes between these two countries on December 26, 1947, this provisional fur-seal agreement was continued in effect until a permanent convention can be arranged for the protection of the Alaska fur-seal herd. On February 26, 1944, a new Alaska fur-seal law was signed by the President of the United States to give effect to the provisional agreement with Canada. This Act, as amended, and the Provisional Fur-seal Agreement, as amended, are reprinted in full as follows:

FUR SEAL ACT OF FEBRUARY 26, 1944,
(52 Stat. 104)

As amended by joint resolution of July 25,
1947, (Pub. Law 239 - 80th Congress) 1

AN ACT

To give effect to the Provisional Fur Seal Agreement of 1942 between the United States of America and Canada; to protect the fur seals of the Pribilof Islands; and for other purposes.

1 Section 19 of the Act of February 26, 1944 was repealed by a Joint Resolution of the 80th Congress, approved July 25, 1947. Section 19 provided that the Act would "remain in effect only for the duration of the present hostilities and twelve months thereafter unless either the Government of the United States of America or the Government of Canada enacts legislation contrary thereto, or until twelve months after either Government shall have notified the other Government of its intention to terminate the agreement."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this Act--

(a) "Pelagic sealing" means the killing, capturing, or pursuing, or the attempted killing, capturing, or pursuing of fur seals at sea, whether within or without the territorial waters of the United States.

(b) "Sealing" means the killing, capturing, or pursuing, or the attempted killing, capturing, or pursuing, of fur seals in or on any lands or waters subject to the jurisdiction of the United States.

(c) "Sea otter hunting" means the killing, capturing, or pursuing, or the attempted killing, capturing, or pursuing, of sea otters at sea, except in waters subject to the jurisdiction of the United States where other laws are applicable. ¹²

(d) "Person" includes individual, association, partnership, and corporation.

(e) "Secretary" means the Secretary of the Interior.

(f) "Fur-seal agreement" means the provisional fur-seal agreement between the United States and Canada effected by an exchange of notes signed at Washington on December 8, 1942, and on December 19, 1942, and any other treaty, convention or other agreement hereafter entered into by the United States for the protection of fur seals.

(g) "North Pacific Ocean" includes the Bering Sea.

(h) "Import" means land on or bring into, or attempt to land on or bring into, any place subject to the jurisdiction of the United States.

SEC. 2. It shall be unlawful, except as hereinafter provided, for any citizen or national of the United States, or person owing duty of obedience to the laws or treaties of the United States, or any vessel of the United States, or person belonging to or on such vessel, to engage in pelagic sealing or sea otter hunting in or on the waters of the North Pacific Ocean; or for any person or vessel to engage in sealing; or for any person or vessel to use any port or harbor or other place subject to the jurisdiction of the United States for any purpose connected in any way with the operation of pelagic sealing, sea otter hunting, or sealing; or for any person to transport, import, offer for sale, or have in possession at any port, place, or on any vessel subject to the jurisdiction of the United States, raw, dressed, or dyed skins of sea otters taken contrary to the provisions of this section or, where taken pursuant to section 3 of this Act, not officially marked and certified as having been so taken, or raw, dressed, or dyed skins of fur seals taken in or on the waters of the North Pacific Ocean or on lands subject to the jurisdiction of the United States, except seal skins which have been taken under the authority of this Act or under the authority of the respective parties to any fur-seal agreement and which have been officially marked and certified as having been so taken.

SEC. 3. Indians, Aleuts, or other aborigines dwelling on the American coasts of the waters of the North Pacific Ocean shall be permitted to carry on pelagic sealing or sea otter hunting without the use of firearms from canoes or undecked boats, propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, and manned by not more than five persons each, in the way heretofore practiced by said Indians, Aleuts, or other aborigines, and shall be permitted to dispose of the skins of fur seals or sea otters so taken as they see fit, but only after such skins have been

¹² The taking of sea otters in waters subject to the jurisdiction of the United States is prohibited by regulations promulgated under the Alaska Game Law of January 13, 1945, as amended July 1, 1948.

officially marked and certified as provided in section 2 of this Act. The exception made in this section shall not apply to Indians, Aleuts, or other aborigines in the employment of other persons or who shall engage in pelagic sealing or sea-otter hunting under contract to deliver the skins to any person.

SEC. 4. In order to continue the proper utilization of the fur-seal herd of the North Pacific Ocean and to carry out the purposes of this Act, the Secretary is authorized to permit sealing on the Pribilof and other islands and on the shores of waters subject to the jurisdiction of the United States, by officers and employees of the Fish and Wildlife Service designated by him and by the natives of the Territory of Alaska, and to adopt suitable regulations governing the same whenever he shall determine that such sealing is necessary or desirable and not inconsistent with preservation of the fur seals of the North Pacific Ocean. The Secretary is also authorized to permit pelagic sealing in the event of emergency circumstances by officers, employees and agents of the United States and by the natives of the Territory of Alaska under such conditions and for such periods as may be agreed upon by consultation between the Government of the United States and the Government of Canada in accordance with the provisions of article II of the Provisional Fur Seal Agreement of 1942.

SEC. 5. Subject to the provisions of sections 3 and 15 of this Act, all seal or sea-otter skins taken under the authority conferred by this Act, or forfeited to the United States, and all sealskins delivered to the United States pursuant to the terms of any fur-seal agreement shall be sold under the direction of the Secretary in such market, at such times, and in such manner as he may deem most advantageous; and the proceeds of such sale shall be paid into the Treasury of the United States.

SEC. 6. The Pribilof Islands, including the islands of Saint Paul and Saint George, Walrus and Otter Islands, and Sea Lion Rock, in Alaska, are declared a special reservation for Government purposes. It shall be unlawful for any person other than natives of the said islands and officers and employees of the Fish and Wildlife Service to land or remain on any of these islands, except through stress of weather or like unavoidable cause or by the authority of the Secretary, and any person found on any of these islands contrary to the provisions of this section shall be summarily removed and shall be deemed guilty of a misdemeanor, punishable by a fine not exceeding \$500 or by imprisonment not exceeding six months, or by both fine and imprisonment.

SEC. 7. Whenever seals are killed and sealskins taken on any of the Pribilof Islands, the native inhabitants of the islands shall be employed in such killing and in curing the skins taken, and shall receive for their labor fair compensation to be fixed from time to time by the Secretary, who shall have the authority to prescribe the manner in which such compensation shall be paid to the natives or expended or otherwise used on their behalf and for their benefit.

SEC. 8. The Secretary shall have authority to establish and maintain depots for provisions and supplies on the Pribilof Islands and to provide for the transportation of such provisions and supplies from the mainland of the United States to the islands by the charter of private vessels or by the use of public vessels of the United States which may be under his control or which may be placed at his disposal by the President; and he likewise shall have authority to furnish food, shelter, fuel, clothing, and other necessities of life to the native inhabitants of the Pribilof Islands and to provide for their comfort, maintenance, education, and protection.

SEC. 9. Under the direction of the Secretary, the Fish and Wildlife Service is authorized to investigate the conditions of seal life upon the rookeries of the Pribilof Islands, and to continue the inquiries relative to the life history

and migrations of the seals frequenting the waters of the North Pacific Ocean.

SEC. 10. Any officer or employee of the Department of the Interior authorized by the Secretary, any naval or other officer designated by the President, any marshal or deputy marshal, any collector or deputy collector of customs, and any other person authorized by law to enforce the provisions of this Act shall have power, without warrant, to arrest any person committing a violation of this Act or any regulation made pursuant thereto in his presence or view, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; and shall have power, without warrant, to search any vessel within any of the territorial waters of the United States, or any vessel of the United States on the high seas, when he has reasonable cause to believe that such vessel is subject to seizure under this section. Any officer, employee, or other person authorized to enforce the provisions of this Act shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this Act; and shall have power with a search warrant to search any person, vessel, or place at any time. The judges of the courts established under the laws of the United States, and the United States commissioners, may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed contrary to the provisions of this Act or of any regulation made pursuant thereto, and any vessel used or employed contrary to the provisions of this Act or of any regulation made pursuant thereto, or which it reasonably appears has been or is about to be used or employed in or in aid of the performance of any act forbidden by the provisions of this Act or of any regulation made pursuant thereto, together with its tackle, apparel, furniture, appurtenances, and cargo, may, whenever and wherever lawfully found, be seized by any such officer, employee, or other person.

SEC. 11. Except where otherwise expressly provided in this Act, any person violating any provision of this Act or any regulation made pursuant thereto shall be punished for each such offense, upon conviction thereof, by a fine of not less than \$200 nor more than \$2,000, or by imprisonment for not more than six months, or by both fine and imprisonment. All fur seals or sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed contrary to any provision of this Act or any regulation made pursuant thereto shall be forfeited to the United States and shall be disposed of pursuant to section 5 of this Act. Any vessel used or employed contrary to any provision of this Act or of any regulation made pursuant thereto shall, together with its tackle, apparel, furniture, appurtenances, and cargo, be forfeited to the United States and shall be disposed of as directed by the court having jurisdiction.

SEC. 12. It shall be the duty of all collectors of customs to enforce the provisions of this Act with respect to the importation of the skins of fur seal and sea otter.

SEC. 13. Any person or vessel described in section 2 of this Act in any of the waters of the North Pacific Ocean designated in any fur-seal agreement, including in any event the waters north of the thirtieth parallel of north latitude and east of the one hundred and eightieth meridian, violating or being about to violate the prohibitions of this Act against pelagic sealing may be seized and detained by the naval or other duly commissioned officers of any of the parties to such fur-seal agreement other than the United States, except within the territorial jurisdiction of one of the other said parties, on condition, however, that when such person or vessel is so seized and detained by officers of any party other than the United States, such person or vessel

shall be delivered as soon as practicable at the nearest point to the place of seizure, with witnesses and proofs necessary to establish the offense so far as they are under the control of such party, to the proper official of the United States, whose courts alone shall have jurisdiction to try the offense and impose penalties for the same. The said officers of any party to any such fur-seal agreement other than the United States shall seize and detain persons and vessels, as in this section specified, only after such party by appropriate legislation or otherwise, shall have authorized naval or other officers of the United States duly commissioned and instructed by the President to that end to seize, detain, and deliver to the proper officers of such party vessels and persons under the jurisdiction of that government offending against any such fur-seal agreement, or any statute or regulation made by that government to enforce any such fur-seal agreement. Upon the giving of such authority by such party, such naval or other officers of the United States shall have authority to make the seizures, detentions, and deliveries described. The President of the United States shall determine by proclamation when such authority has been given by the other party to any such fur-seal agreement, and his determination shall be conclusive upon the question; such proclamation may be modified, amended, or revoked by proclamation of the President whenever in his judgment it is deemed expedient.

SEC. 14. It shall be the duty of the President to cause a guard or patrol to be maintained in the waters frequented by the seal herds and sea otter in the protection of which the United States is especially interested, composed of naval or other public vessels of the United States designated by him for such service.

SEC. 15. The Secretary shall have authority to receive on behalf of the United States any fur seal skins taken by any party to any fur-seal agreement and tendered for delivery by such party in accordance with the terms of such fur-seal agreement, and all skins which are or shall become the property of the United States from any source whatsoever shall be disposed of in accordance with the provisions of section 5 of this Act. The Secretary likewise shall have authority to deliver to the authorized agents of any government that is a party to a fur-seal agreement the skins to which such government is entitled under the provisions of such fur-seal agreement, and to do or perform, or cause to be done or performed, any act which the United States is authorized or obliged to do or perform by the provisions of such fur-seal agreement.

SEC. 16. Nothing contained in this Act shall apply to the killing, capturing, pursuing, transportation, importation, offering for sale, or possession of fur seals or sea otters, or the skins thereof, for scientific purposes under special permit issued therefor by the Secretary.

SEC. 17. The Secretary shall supervise and direct the administration of this Act through the Fish and Wildlife Service and shall make all regulations necessary for the enforcement of this Act and any fur-seal agreement. It shall be his duty to provide for the enforcement of all of the provisions of this Act and of the regulations issued thereunder, except to the extent otherwise provided for in this Act, and to cooperate with other Federal agencies and with the duly authorized officials of the government of any party to any fur-seal agreement in the enforcement of such agreement. Out of such moneys as may be appropriated for such purposes, he shall employ in Washington, District of Columbia, and elsewhere such individuals and means as he may deem necessary for the administration of this Act and of any other function imposed upon him by any fur-seal agreement.

SEC. 18. All Acts and parts of Acts inconsistent with the provisions of this Act, including but not limited to the following, are hereby repealed: Sections 1956, 1959, 1960, and 1961 of the Revised Statutes of the United States;

Act of February 21, 1893 (27 Stat. 472, ch. 150); Act of April 6, 1894 (28 Stat. 52); Act of December 29, 1897 (30 Stat. 226, ch. 3); Act of April 21, 1910 (36 Stat. 326, ch. 183); Act of August 24, 1912 (37 Stat. 499, ch. 373); and joint resolution of June 22, 1916 (39 Stat. 236, ch. 171), all as amended.

PROVISIONAL FUR SEAL AGREEMENT
BETWEEN
THE UNITED STATES AND CANADA

(By exchange of notes dated Dec. 8 and Dec. 19, 1942,
as amended by exchange of notes dated Dec. 26, 1947) /3

ARTICLE I

The provisions of this Agreement shall apply to all waters of the Bering Sea and the Pacific Ocean, north of the thirtieth parallel of north latitude and east of the one hundred and eightieth meridian.

ARTICLE II

The Government of the United States of America and the Government of Canada mutually and reciprocally agree that:

(a) Excepting as may be authorized pursuant to paragraph (c) of this Article, nationals or citizens of the respective countries, and all persons, and vessels, subject to their laws and treaties, shall be prohibited, while this Agreement remains in force, from engaging in pelagic sealing in the waters within the area defined in Article I, and that every such person and vessel offending against such prohibition may be seized, except within the territorial jurisdiction of the other Party to this Agreement, and detained by the naval or other duly commissioned officers of either of the Parties, to be delivered as soon as practicable to an authorized official of their own nation at the nearest point to the place of seizure, or elsewhere as may be mutually agreed upon; and that the authorities of the nation to which such person or vessel belongs alone shall have jurisdiction to try the offense and impose the penalties for the same; and that the witnesses and proofs necessary to establish the offense, so far as they are under the control of either of the Parties to this Agreement, shall be furnished with all reasonable promptness to the authorities having jurisdiction to try the offense;

(b) No person or vessel shall be permitted to use any of the ports or harbors of either of the Parties to this Agreement

/3 Article X of the Provisional Fur Seal Agreement relates to the duration of the Agreement and originally provided that the "Agreement shall remain in effect for the duration of the present emergency and twelve months thereafter unless either the Government of the United States of America or the Government of Canada enacts legislation contrary to its provisions or until twelve months after either Government shall have notified the other Government of an intention of terminating the Agreement."

or any part of the territories of such Parties for any purposes connected with the operation of pelagic sealing in the waters within the area defined in Article I; and the importation into or possession within their respective territories of skins of fur seals taken in those waters other than in accord with the provisions of this Agreement shall not be permitted; and

(c) Notwithstanding the foregoing provisions, pelagic sealing may be conducted, in the event of emergency circumstances, by an agency or agencies authorized by either of the two Governments under such conditions and for such a period as may be agreed upon by consultation between the two Governments, and the skins thus taken shall be shared in such a manner as may be agreed upon between them.

ARTICLE III

The United States agrees that of the total number of sealskins taken annually under the authority of the United States upon the Pribilof Islands or any other islands or shores of the waters defined in Article I subject to the jurisdiction of the United States to which any seal herds hereafter resort, there shall be delivered at the Pribilof Islands or at such other point or points as may be acceptable to both Governments, at the end of each season during the term of this Agreement 20 per cent gross in number and value thereof to an authorized agent of the Canadian Government.

ARTICLE IV

It is agreed on the part of Canada that in case any fur seals hereafter resort to any islands or shores of the waters defined in Article I subject to the jurisdiction of Canada, there shall be delivered at the end of each season during the term of this Agreement 20 per cent gross in number and value of the total number of sealskins taken annually from such herd to an authorized agent of the Government of the United States of America at Vancouver, British Columbia, or at such other point or points as may be acceptable to both Governments.

ARTICLE V

The provisions of this Agreement shall not apply to Indians, Aleuts, or other aborigines dwelling on the coasts of the waters defined in Article I, who carry on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practiced, and without the use of firearms; provided that such aborigines are not in the employment of other persons or under contract to deliver the skins to any person.

ARTICLE VI

The term pelagic sealing is hereby defined for the purposes of this Agreement as meaning the killing, capturing, or pursuing in any manner whatsoever of fur seals at sea.

ARTICLE VII

Notwithstanding anything contained in the preceding Articles of the present Agreement, either Party to this Agreement may grant to any of its nationals or

agencies a special permit to take fur seals for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Party deems appropriate. Each Party shall at the end of each calendar year inform the other Party of the number of animals taken and the data obtained under such permits.

ARTICLE VIII

Nothing contained in the present Agreement shall restrict the right of the United States at any time to suspend altogether the taking of sealskins upon the Pribilof Islands or any other islands or shores of the waters defined in Article I subject to its jurisdiction, or the right of the United States to impose such restrictions and regulations upon the total number of skins which may be taken in any season and the manner and times and places of taking skins as may seem necessary to protect and preserve the seal herd or to increase its numbers, provided, however, that the two Governments will consult from time to time regarding the level of population at which the seal herd is to be maintained or other important phases of management or policy.

ARTICLE IX

Each of the Parties agrees to enact and enforce such legislation as may be necessary to make effective the foregoing provisions with appropriate penalties for violations thereof.

The Parties further agree to cooperate with each other in taking such measures as may be appropriate for the enforcement of the foregoing provisions.

ARTICLE X

This Agreement shall enter into force on the day the President of the United States of America approves legislation enacted by the Congress of the United States for its enforcement, and the day the Government of Canada issues an Order in Council applying the provisions of the Agreement, or should the President's approval of the legislation and the issuance of the Order in Council be on different days, on the date of the later in time of such approval by the President or issuance of such Order in Council. When this Agreement shall have entered into force it shall be deemed to have been in effect as from June 1, 1942. The Agreement shall remain in effect until (a) either the Government of the United States of America or the Government of Canada enacts legislation contrary to its provisions; or (b) the date of entry into force of a new agreement for the preservation and protection of fur seals to which the United States of America and Canada, and possibly other interested countries, shall be parties; or (c) twelve months after either Government shall have notified the other Government of an intention of terminating the Agreement.