

An Overview of the Memorandum of Understanding (MOU) for Coordinated Interagency Fish and Wildlife Management for Subsistence Uses on Federal Public Lands in Alaska

Between the

Federal Subsistence Board (U.S. Fish and Wildlife Service, U.S. Forest Service, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and Secretarial Appointees)

and

State of Alaska

(Alaska Department of Fish and Game (ADF&G) and Alaska Board of Fisheries and Alaska Board of Game (State Boards))

The MOU is for the purpose of coordinating interagency fish and wildlife management for subsistence uses on Federal public lands that is consistent with State and Federal authorities.

We are renewing the MOU because it had an expiration date if there were no formally documented meetings regarding the MOU on an annual basis.

The MOU expired in November 2014. Prior to this, a renewal process took place in 2013, but was not completed. The Commissioner's office of the ADF&G through their work liaising with the Federal Subsistence Board reengaged the State Boards on the renewal of the MOU.

Both state and federal boards have supported this process and both State and Federal agencies created teams to work together on possible revisions to the MOU prior to signing.

The State and Federal agency teams are seeking State Advisory Committee (AC) and Regional Advisory Council (RAC) input on the draft MOU (*version date August 11, 2016*). There are most likely additional revisions that will take place, but we want to get input during this round of AC meetings.

Areas of input:

While all AC and RAC input is welcome and valued, in particular the working group is seeking input in the following areas.

-What areas (geographic, permitting, regulations, management, other) could there be better coordination among State and Federal agencies on the fish and wildlife management for subsistence uses on Federal public lands in Alaska?

-What areas (geographic, permitting, regulation, management, other) are the agencies coordinating well and this should continue?

Outline of the MOU:

Section I. Preamble: This section covers State and Federal authorities over management of subsistence uses of fish and wildlife resources on Federal public lands in Alaska. The language is from the Alaska National Interest Lands Conservation Act (ANILCA) and laws and regulations of the State of Alaska.

Section II. Purpose: This section provides the foundation and direction for coordinated interagency fish and wildlife management for subsistence uses on Federal public lands.

Section III: Guiding Principles: This section guides coordination and covers topics such as:

- 1) Ensure conservation, provide continued uses, priority for subsistence, promote regulatory coordination, exchange information among many entities (listed in 1);
- 2) Confirm wildlife management activities remain within the authority of individual land management agencies;
- 3) Use best available information (western science and Traditional ecological knowledge (TEK) or local knowledge (LK));
- 4) Avoid duplication;
- 5) Involve users in planning;
- 6) Promote stability, minimize disruption; and
- 7) Promote clear, enforceable fishing, hunting and trapping regulations.

Section IV: The Federal Subsistence Board and State of Alaska mutually agree to:

- 1) Cooperate and coordinate research, monitoring, regulatory decisions and management actions towards conservation;
- 2) Share important data and information (both western science and TEK/LK);
- 3) Recognize the Federal priority for rural residents for subsistence and to allow for other uses when harvestable surpluses are sufficient;
- 4) Cooperative funding agreement may be necessary and important;
- 5) Seek resolution when there are differences interpreting data;
- 6) Develop information to clarify regulations for the public;
- 7) Establish protocols when necessary such as the Yukon River Drainage Subsistence Salmon Fishery Management Protocol for coordinated salmon management, preseason planning, inseason salmon management, postseason evaluation and roles;
- 8) Have state and federal staff review data analyses associated with regulatory proposals, harvest assessment, monitoring studies, and subsistence resource management cooperatively with RACs, Subsistence Resource Commissions (SRC), Tribes and others;
- 9) Designate liaisons at the State and Federal agencies for coordination and communication;
- 10) Provide adequate opportunity to review analyses associated with special actions and emergency orders and provide advance notice when possible before issuing special actions or emergency orders; don't delay if of immediate concern;

- 11) Cooperatively review and develop as needed, Federal and State management plans;
- 12) Use the State's harvest reporting system, unless separate Federal subsistence permits and harvest reports are needed;
- 13) Ensure meaningful involvement for all in regulatory processes that affect subsistence on Federal public lands.

Section V. General Provisions: This section is general language associated with MOUs and has been reviewed by the State Department of Law Natural Resources Section.

Of note is number 7 where an annual meeting will take place to review coordinated programs established under this MOU. There is no expiration date to the MOU now.

Appendix: Scope for Protocols

How protocols will be developed and who needs to sign them.

MEMORANDUM OF UNDERSTANDING

For

Coordinated Interagency Fish and Wildlife Management for Subsistence Uses on Federal
Public Lands in Alaska

between the

Federal Subsistence Board

(U.S. Fish and Wildlife Service, USDA Forest Service, National Park Service, Bureau of
Land Management, Bureau of Indian Affairs, and Secretarial Appointees)

and

State of Alaska

(Alaska Department of Fish and Game (ADF&G) and Alaska Board of Fisheries and
Alaska Board of Game (State Boards))

I. PREAMBLE

This Memorandum of Understanding (MOU) between the Federal Subsistence Board and the State of Alaska establishes guidelines to coordinate management of subsistence uses of fish and wildlife resources on Federal public lands in Alaska.

WHEREAS, the Secretaries of Agriculture and the Interior (Secretaries), by authority of the Alaska National Interest Lands Conservation Act (ANILCA) and other laws of Congress, regulations, and policies, are responsible for ensuring that the taking of fish and wildlife for nonwasteful subsistence uses on Federal public lands, as discussed in ANILCA §802(2) and defined in ANILCA §803, shall be accorded priority over the taking on such lands of fish and wildlife for other purposes as provided for in ANILCA §804; and that the Secretaries are responsible for protecting and providing the opportunity for rural residents of Alaska to engage in a subsistence way of life on Federal public lands in Alaska, consistent with the conservation of healthy populations of fish and wildlife and recognized scientific principles; and that these lands are defined in ANILCA §102 and Federal regulation (36 CFR Part 242 and 50 CFR Part 100); and that the Secretaries primarily implement this priority through the Federal Subsistence Board, providing for public participation through Regional Advisory Councils and Subsistence Resource Commissions as authorized by ANILCA §805 and §808 and Federal regulations (above); and,

WHEREAS, the State of Alaska, under its laws and regulations, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State of Alaska on the sustained yield principle, subject to preferences among beneficial uses, such as providing a priority for subsistence harvest and use of fish and wildlife (where such uses are customary and traditional), and implements its program through the State Boards and the ADF&G, providing for public participation

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(11 Aug 2016)

through Advisory Committees authorized in the State's laws and regulations (Alaska Statutes Title 16; Alaska Administrative Code Title 5) and through Alaska Administrative Procedure Act; and,

WHEREAS, ANILCA, Title VIII, authorizes the Secretaries to enter into cooperative agreements in order to accomplish the purposes and policies of Title VIII, and the Federal Subsistence Board and the State of Alaska believe it is in the best interests of the fish and wildlife resources and the public to enter into this Memorandum of Understanding;

THEREFORE, the signatories endorse coordination of Federal and State regulatory processes and the collection and exchange of data and information relative to fish and wildlife populations and their use necessary for subsistence management on Federal public lands. This MOU forms the basis for such cooperation and coordination among the parties with regard to subsistence management of fish and wildlife resources on Federal public lands.

II. PURPOSE

The purpose of this MOU is to provide a foundation and direction for coordinated interagency fish and wildlife management for subsistence uses on Federal public lands, consistent with specific Federal and State authorities as stated above, that will protect and promote the sustained health of fish and wildlife populations, ensure conservation of healthy populations and stability in fish and wildlife management, and include meaningful public involvement. The signatories hereby enter this MOU to accomplish this purpose and to establish guidelines for subsequent agreements and protocols to implement coordinated management of fish and wildlife resources used for subsistence purposes on Federal public lands in Alaska.

III. GUIDING PRINCIPLES

- 1) Ensure conservation of fish and wildlife resources while providing for continued uses of fish and wildlife, including a priority for subsistence uses, through interagency subsistence management and regulatory programs that promote coordination, cooperation, and exchange of information between Federal and State agencies, regulatory bodies, Regional Advisory Councils, Subsistence Resource Commissions, State Advisory Committees, state and local organizations, tribes and/or other Alaska Native organizations, and other entities;
- 2) Recognize that wildlife management activities on Federal public lands, other than the subsistence take and use of fish and wildlife remain within the authority of the individual land management agencies.
- 3) Use the best available information, including scientific, cultural and local knowledge and knowledge of customary and traditional uses, for decisions regarding fish and wildlife management for subsistence uses on Federal public lands;

- 4) Avoid duplication in research, monitoring, and management;
- 5) Involve subsistence and other users in the fisheries and wildlife management planning processes;
- 6) Promote stability in fish and wildlife management and minimize unnecessary disruption to subsistence and other uses of fish and wildlife resources; and
- 7) Promote clear and enforceable hunting, fishing, and trapping regulations.

IV. THE FEDERAL SUBSISTENCE BOARD AND STATE OF ALASKA MUTUALLY AGREE

- 1) To cooperate and coordinate their respective research, monitoring, regulatory, and management actions to help ensure the conservation of fish and wildlife populations for subsistence use on Federal public lands.
- 2) To recognize that fish and wildlife population data and information, including local knowledge of customary and traditional uses, are important components of successful implementation of Federal responsibilities under ANILCA Title VIII.
- 3) To recognize a Federal priority for rural residents on Federal public lands for subsistence uses of fish and wildlife resources. Additionally, to allow for other uses of fish and wildlife resources when harvestable surpluses are sufficient, consistent with ANILCA and Alaska Statute 16.05.
- 4) To recognize that cooperative funding agreements implementing the provisions of this MOU be negotiated when necessary and as authorized by ANILCA §809 and other appropriate statutory authorities. Federal funding agreements for cooperative research and monitoring studies of subsistence resources with organizations representing local subsistence users and others are, and will continue to be, an important component of information gathering and management programs.
- 5) To recognize that Federal and State scientific standards for conservation of fish and wildlife populations are generally compatible. When differences interpreting data are identified, the involved agencies should appoint representatives to seek resolution of the differences.
- 6) To cooperatively pursue the development of information to clarify Federal and State regulations for the public.
- 7) To recognize that the signatories establish protocols or other procedures that address data collection and information management, data analysis and review, in-season fisheries and wildlife management, and other key activities and issues jointly agreed upon that affect subsistence uses on Federal public lands. (See Appendix)

- 8) To have Federal and State staff work cooperatively with Regional Advisory Councils, Subsistence Resource Commissions, State Advisory Committees, tribes and other stakeholders, as appropriate, to review data analyses associated with regulatory proposals, harvest assessment and monitoring studies, and subsistence resource management.
- 9) To designate liaisons for policy and program communications and coordination between the Federal and State programs.
- 10) To provide adequate opportunity for the appropriate Federal and State agencies to review analyses and justifications associated with special actions and emergency orders affecting subsistence uses on Federal public lands, prior to implementing such actions. Where possible and as required, Federal and State agencies will provide advance notice to Regional Advisory Council, Subsistence Resource Commission, and/or State Advisory Committee representatives, tribes and other interested members of the public before issuing special actions or emergency orders. Where conservation of the resource or continuation of subsistence uses is of immediate concern, the review shall not delay timely management action.
- 11) To cooperatively review existing, and develop as needed, Federal subsistence management plans and State fish and wildlife management plans that affect subsistence uses on Federal public lands. Provide an opportunity for Regional Advisory Council, Subsistence Resource Commission and/or State Advisory Committee representatives, tribes and other public to participate in the review. Consider Federal, State and cooperative fish and wildlife management plans as the initial basis for any management actions so long as they provide for subsistence priorities. Procedures for management plan reviews and revisions will be developed by the respective Federal and State Boards in a protocol.
- 12) To use the State's harvest reporting and assessment systems supplemented by information from other sources to monitor subsistence uses of fish and wildlife resources on Federal public lands. In some cases, Federal subsistence seasons, harvest limits, or data needs necessitate separate Federal subsistence permits and harvest reports.
- 13) To ensure that local residents, tribes and other users will have meaningful involvement in subsistence wildlife and fisheries regulatory processes that affect subsistence uses on Federal public lands.

V. GENERAL PROVISIONS

- 1) No member of, or Delegate to, Congress shall be admitted to any share or part of this document, or to any benefit that may arise from it.
- 2) This MOU is complementary to and is not intended to replace the Master Memoranda of Understanding between the individual Federal agencies and ADF&G, with the exception of specific Federal responsibilities for subsistence uses of fish and wildlife on

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(11 Aug 2016)

Federal public lands. Supplemental protocols to this document may be developed to promote further interaction and coordination among the parties.

- 3) Nothing herein is intended to conflict with Federal, State, or local laws or regulations.
- 4) Nothing in this MOU enlarges or diminishes each party's existing responsibilities and authorities.
- 5) Upon signing, the parties shall each designate an individual and an alternate to serve as the principal contact or liaison for implementation of this MOU.
- 6) This MOU becomes effective upon signing by all signatories and will remain in force until such time as the Secretary of the Interior determines that the State of Alaska has implemented a subsistence management program in compliance with Title VIII of ANILCA, or, signatories terminate their participation in this MOU by providing 60 days written notice. Termination of participation by one signatory has no impact on this MOU's effectiveness between the remaining signatories.
- 7) Regional Advisory Councils, Subsistence Resource Commissions and State Advisory Committees will be asked annually to provide comments to the signatories concerning Federal/State coordination. The signatories will meet annually or more frequently if necessary, to review coordinated programs established under this MOU, to consider Regional Advisory Council, Subsistence Resource Commission and State Advisory Committee comments, and to consider modifications to this MOU that would further improve interagency working relationships. Any modifications of this MOU shall be made by mutual consent of the signatories, in writing, signed and dated by all parties.
- 8) Nothing in this document shall be construed as obligating the signatories to expend funds or involving the United States or the State of Alaska in any contract or other obligations for the future payment of money, except as may be negotiated in future cooperative funding agreements.
- 9) This MOU establishes guidelines and mutual management goals by which the signatories shall coordinate, but does not create legally enforceable obligations or rights.
- 10) This MOU does not restrict the signatories from participating in similar agreements with other public or private agencies, tribes, organizations, and individuals.

SIGNATORIES

In WITNESS THEREOF, the parties hereto have executed this MOU as of the last date written bellow.

Commissioner
Alaska Department of Fish and Game
Date:

Chair of the Federal Subsistence Board
Date:

Chair
Alaska Board of Fisheries
Date:

Regional Director
U.S. Fish and Wildlife Service
Date:

Chair
Alaska Board of Game
Date:

Regional Forester
USDA Forest Service
Date:

Regional Director
National Park Service
Date:

State Director
Bureau of Land Management
Date:

Regional Director
Bureau of Indian Affairs
Date:

Member of the Federal Subsistence Board
Date:

Member of the Federal Subsistence Board
Date:

APPENDIX**SCOPE FOR PROTOCOLS AND/OR PROCEDURES**

- 1) Joint technical committees or workgroups may be appointed to develop protocols and/or procedures.
- 2) Individual protocols and/or procedures should:
 - a. Be developed by an interagency committee. The committee shall involve, as appropriate, Regional Advisory Council, Subsistence Resource Commissions and/or State Advisory Committee representatives and other Federal/State regional or technical experts.
 - b. Identify the subject or topic of the protocol and provide justification.
 - c. Identify the parties to the protocol.
 - d. Identify the process to be used for implementing the protocol.
 - e. Provide for appropriate involvement of Regional Advisory Councils, Subsistence Resource Commissions and/or State Advisory Committees, tribes and/or other Alaska Native organizations, governmental organizations, and other affected members of the public when implementing protocols.
 - f. Specify technical committee or workgroup memberships.
 - g. Develop a timeline to complete tasks.
 - h. Identify funding obligations of the parties.
 - i. Define the mechanism to be used for review and evaluation.
- 3) Protocols or procedures require concurrence by the land agencies party to the specific protocols as appropriate and prior to implementation.