

Alaska Marine Ecosystem Forum

MEMORANDUM OF UNDERSTANDING

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Between

**U.S. DEPARTMENT OF COMMERCE
NATIONAL MARINE FISHERIES SERVICE
and
THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
and
U.S. DEPARTMENT OF INTERIOR
U.S. FISH AND WILDLIFE SERVICE
and
U.S. DEPARTMENT OF INTERIOR
U.S. MINERALS MANAGEMENT SERVICE
and
U.S. DEPARTMENT OF INTERIOR
U.S. NATIONAL PARK SERVICE
and
U.S. DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
and
U.S. ENVIRONMENTAL PROTECTION AGENCY
and
U.S. DEPARTMENT OF AGRICULTURE
U.S. FOREST SERVICE
and
U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. COAST GUARD
and
U.S. DEPARTMENT OF DEFENSE
ALASKAN COMMAND
and
U.S. DEPARTMENT OF DEFENSE
U.S. ARMY CORPS OF ENGINEERS
and
ALASKA DEPARTMENT OF FISH AND GAME
and
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
and
ALASKA DEPARTMENT OF NATURAL RESOURCES
and
ALASKA DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC
DEVELOPMENT**

**CONCERNING THE ESTABLISHMENT OF
THE ALASKA MARINE ECOSYSTEM FORUM**

Article I. Background

The marine ecosystems off Alaska's coast support a diverse natural environment and a multiplicity of human activities. With national initiatives calling for more systematic collaboration on ocean-related matters, the establishment of the Alaska Marine Ecosystem Forum (AMEF) brings together Alaska's Federal and State agencies as well as the North Pacific Fishery Management Council to address issues of shared responsibilities related to the marine ecosystems off Alaska's coast. The AMEF promotes the collective aim of Federal and State agencies and the North Pacific Fishery Management Council to achieve sustainable management and use of Alaska's marine ecosystems in the most effective and efficient manner, consistent with the missions of those agencies. Through coordinated and cooperative understanding, the AMEF seeks to ensure that the interests of the people, biota, and physical environment of Alaska's marine waters are well served.

Alaska's state and federal waters form part of several large marine ecosystems, each with distinct natural processes and human activities. In order to allow the AMEF to fully engage with the issues of an area, and effectively target opportunities for coordination and collaboration, the AMEF will focus on a designated marine ecosystem area. Each area will be identified through mutual agreement of the signatories, and will be described in addendums to this document.

The AMEF does not create enforceable legal obligations, but rather is intended to facilitate member agencies sharing information to promote awareness and mutual goals, address issues of shared governmental responsibilities and to further intergovernmental communications regarding programs and activities that are the primary responsibility of individual agencies. The activities of the AMEF shall be consistent with applicable Federal and State laws and regulations and are subject to the availability of duly appropriated funds. Nothing in this agreement is intended, nor shall it act, in any way to alter, impede, or interfere with the authorities and procedures of the agencies involved in carrying out their regulatory and law enforcement responsibilities, authorities, or missions.

Article II. Role of the AMEF

The primary role of the AMEF is to enhance coordination in support of the sustainable management of Alaska's marine ecosystems. The AMEF will provide a venue where participants may share information. It is not to be or become a group that provides consensus advice and/or recommends actions. Through the AMEF, the member agencies will keep abreast of existing and emerging issues relating to human activities and natural processes affecting Alaska's ecosystem areas.

The AMEF is being established so that:

- Member agencies are aware of salient regional issues, existing or potential user conflicts, and relevant ecosystem developments;
- Member agencies may achieve efficiencies by sharing unclassified information regarding ecosystem efforts and goals, and by reducing or removing duplicative ecosystem efforts
- Activities undertaken or contemplated by member agencies are complementary where possible and achieve effective results for ecosystem sustainability and utilization.

Article III. Purpose of the AMEF

The purpose of the AMEF is to provide a venue where participants may share information. It is not to be or become a group that provides consensus advice and/or recommends actions. The AMEF will allow Federal and State agencies and the North Pacific Fishery Management Council to share information and increase coordination on common issues within a designated marine ecosystem area. The current area of focus will be identified in addendums to this document. The AMEF will provide the following opportunities:

1. **Sharing Priorities:** Each agency may share its priorities for research, use, and management of resources, as appropriate. Increasing awareness and coordination among agencies and the public may lead to partnership opportunities and setting shared priorities.
2. **Sharing Data:** Provide an efficient forum for sharing information about human activities and natural processes affecting the specified marine ecosystem. The AMEF will discuss how synthesizing and sharing existing, unclassified, data and information can be accomplished and will identify sources of such information-sharing (websites; bibliographies of scientific research; contact information within agencies by issue; information on present, past, future activities for help with National Environmental Policy Act cumulative impact studies; present and future research plans and research priorities; and opportunities for partnership).
3. **Problem Solving:** Allow agencies to identify problems or to share lessons learned from previously solved problems.
4. **Joint Work:** Identify cooperative conservation opportunities that can be pursued at an agency-to-agency level under separate agreements.
5. **Forum Without Jurisdiction:** The AMEF will not have independent jurisdiction or authority and will not regulate any activity. No participating agency is required to obtain approval of other Alaska Marine Ecosystem Forum members before acting.

Article IV. Membership and member responsibilities

Federal and State agencies with jurisdiction over activities within the marine ecosystem are eligible to become members of the Alaska Marine Ecosystem Forum.

Agencies that agree to become members of the Alaska Marine Ecosystem Forum agree to the following:

- to work in good faith to share pertinent, unclassified, information with other AMEF participants;
- to consider relevant information in order to make well-informed decisions;
- to consider indirect consequences for other components of the ecosystem;
- to facilitate open discussion of ways to resolve potential conflicts between competing uses of the ecosystem area; and
- to help inform other interested governmental and non-governmental organizations and provide an opportunity for their contributions to regional marine ecosystem forum meetings and discussions.

Article V. Authorities

National Marine Fisheries Service authorities include but are not limited to:

- Magnuson Stevens Fishery Conservation and Management Act (16 U.S.C 1801, *et seq.*)
- Endangered Species Act (16 U.S.C. 1531, *et seq.*; Public Law 93-522, as amended)
- Marine Mammal Protection Act (16 U.S.C. 1361, *et seq.*; Public Law 92-522)
- Lacey Act (16 U.S.C. 3371-3378; Public Law 97-79, as amended)

North Pacific Fishery Management Council:

- Magnuson Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*)

United States Fish and Wildlife Service authorities include but are not limited to:

- Fish and Wildlife Coordination Act (16 U.S.C. 661-667e)
- National Wildlife Refuge System Administration Act (16 U.S.C. 668dd-668ee)
- Migratory Bird Treaty Act (16 U.S.C. 703-712)
- Marine Mammal Protection Act (16 U.S.C. 1361, *et seq.*; Public Law 92-522)
- Endangered Species Act (16 U.S.C. 1531, *et seq.*; Public Law 93-522, as amended)
- Lacey Act (16 U.S.C. 3371-3378; Public Law 97-79, as amended)

Minerals Management Service authorities include but are not limited to:

- Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq.*; Public Law 95-372)

National Park Service authorities include but are not limited to:

- National Park Service Organic Act of 1916 (16 U.S.C 1-4)

Bureau of Land Management authorities include but are not limited to:

- Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701-1782)

Environmental Protection Agency authorities include but are not limited to:

- National Environmental Policy Act (42 U.S.C. 4321-4347)
- Clean Air Act (42 U.S.C. s/s 7401 *et seq.*)
- Clean Water Act (33 U.S.C. ss/1251 *et seq.*)
- Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. s/s 9601 *et seq.*)
- Emergency Planning & Community Right-To-Know Act (42 U.S.C. 11011 *et seq.*)
- Endangered Species Act (7 U.S.C. 136; 16 U.S.C. 460 *et seq.*)
- Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. s/s 135 *et seq.*)
- Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*)
- Food Quality Protection Act (Public Law 104-170)
- Oil Pollution Act (33 U.S.C. 2702 to 2761)
- Pollution Prevention Act (42 U.S.C. 13101 and 13102, *s/s et seq.*)
- Resource Conservation and Recovery Act (42 U.S.C. s/s 321 *et seq.*)
- Safe Drinking Water Act (42 U.S.C. s/s 300f *et seq.*)
- Superfund Amendments and Reauthorization Act (42 U.S.C. 9601 *et seq.*)
- Toxic Substances Control Act (15 U.S.C. s/s 2601 *et seq.*)

United States Forest Service authorities include but are not limited to:

Magnuson Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*)

United States Coast Guard authorities include but are not limited to:

The Coast Guard Act (14 U.S.C. 2, 81, 88-89, 91, 94)

Alaskan Command authorities include but are not limited to:

Department of Defense Alaskan Command (ALCOM; 10 U.S.C. 111)

Department of Defense Instruction 4000.19, Intraservice and Intragovernmental Support, 9 August 1995

United States Corps of Engineers authorities include but are not limited to:

Rivers and Harbors Act, Section 10 (33 U.S.C. 403)

Clean Water Act, Section 404 (33 U.S.C. 1344)

Marine Protection, Research and Sanctuaries Act, Section 103 (33 U.S.C. 1413)

Alaska Department of Fish and Game authorities include but are not limited to:

Protection, management, conservation, and restoration of the fish and game resources of the state
(Alaska Statute Title 16)

Duties of the Department of Fish and Game (Alaska Statute 44.39.020)

Alaska Department of Environmental Conservation authorities include but are not limited to:

Water, Air, Energy, and Environmental Conservation (Alaska Statute Title 46)

Duties of the Department of Environmental Conservation (Alaska Statute 44.46.020)

Alaska Department of Natural Resources authorities include but are not limited to:

Mining (Alaska Statute Title 27)

Oil and Gas (Alaska Statute Title 31)

Public Land (Alaska Statute Title 38)

Public Resources (Alaska Statute Title 41)

Water, Air, Energy, and Environmental Conservation (Alaska Statute Title 46)

Alaska Department of Commerce, Communities, and Economic Development authorities include but are not limited to:

Duties of the Department of Commerce, Communities, and Economic Development (Alaska Statute 44.33.020)

Article VI. Officers and organization

The AMEF will have two officers, a Chair and a Vice-Chair. The term of chairmanship will be one year, and the Vice-Chair will become chair the following year. One officer will be from a Federal agency or the North Pacific Fisheries Management Council (NPFMC), and the other from a State agency, resulting in a rotating Federal/NPFMC/State chairmanship. The Alaska Marine Ecosystem Forum membership will approve the choice of officers.

The Chair, with the help of the Vice-Chair, will be responsible for organizing meetings of the AMEF, including setting the agenda, inviting presentations, and any follow-up. The Chair may request assistance from member agencies as appropriate.

Article VII. Meetings and procedures

Meetings of the Alaska Marine Ecosystem Forum should minimally take place once a year, and may be held more frequently at the discretion of the officers. The meetings will follow a pre-determined agenda, agreed upon in advance by the participants and will be led by the Chair. Robert's Rules of Order will not be enforced.

Meeting topics may include both agency reports and focused issues. Staff members of AMEF agencies and representatives of non-member entities may be invited to present to the AMEF. Public comment will not be accepted at the meetings, except by invitation, or at the discretion of the participants. From time to time, the AMEF may choose to hold public workshops to solicit comment on specific topics of interest to the AMEF.

Article VIII. Expenditures

Federal agency participation in the AMEF shall not involve interagency funding. Each member agency will bear its own expenses associated with membership in the AMEF and should view said expenses as promoting the groups' organizational interests. Nothing in this Memorandum of Understanding will be construed as obligating any of the members to expend in any fiscal year any sum in excess of the monies appropriated by Congress, or the State of Alaska as the case may be, to the member's participation in the AMEF.

Article IX. Terms of Understanding

Effective date: This MOU shall come into effect for each agency upon the signature of its representative.

Termination date: This MOU shall remain in effect until September 18, 2011 unless renewed or terminated prior to that date by mutual agreement of the parties.

Review: This MOU shall be reviewed by the Parties on an annual basis to assess continuing need and whether the MOU should be amended, revised or canceled.

Modification: This MOU may be amended or modified at any time by mutual agreement of the Parties.

Participation: Participation by any signatory agency may be terminated upon 30 days notice to the Chair.

Addendum 1

Focus: Aleutian Islands Marine Ecosystem Area

The initial focus of the Alaska Marine Ecosystem Forum (AMEF) will be on the Aleutian Islands marine ecosystem. If it proves successful, the AMEF may, in a subsequent addendum, extend or transfer its focus to other Alaska marine ecosystem areas. In this way, the Aleutian Islands ecosystem area will serve as a pilot case for this AMEF.

The Aleutian Islands marine ecosystem area encompasses the Alaskan waters surrounding the Aleutian archipelago from Unimak Island to Attu. The Aleutian Islands provide a unique permanent and migratory habitat for many species of seabirds, marine mammals, pelagic and demersal fish species, and are thought to harbor the highest abundance and diversity of cold water corals in the world; the Aleutian Islands also have a rich cultural heritage. The region is poised to change as military, shipping, fishery, and community development activities proceed in the coming decade. The unique features of the Aleutian Islands marine ecosystem make it an appropriate candidate for further coordination among the Federal and State agencies that manage and regulate the activities that take place there. The AMEF will support Federal and State collaboration in the Aleutian Islands marine ecosystem.

The statements of purpose set out in the Memorandum of Understanding will guide the activities of the AMEF with respect to its Aleutian Islands marine ecosystem area focus. In addition, the AMEF has identified the following issues that may be topics of importance for the AMEF. Although the following list provides an overview of topics that may be addressed by the AMEF, it is not intended to preclude any member from introducing new topics to the AMEF's agenda.

Improved Understanding of Each Entity's Responsibilities

Each participating agency should provide a brief presentation to the AMEF to highlight its primary responsibilities and objectives, its activities affecting the Aleutian Islands, and any major issues in which it is currently involved that may influence the Aleutian Islands marine ecosystem. The presentations would increase awareness of common interests or conflicting goals and may highlight topics that warrant enhanced collaboration, under separate agreements, among the participating agencies.

Engage in Studies and/or Research Concerning Areas of Common Concern

The establishment of the AMEF brings together Alaska's Federal and State agencies as well as the North Pacific Fishery Management Council to address issues of shared responsibilities related to the marine ecosystems off Alaska's coast. The AMEF may therefore promote the members' engaging in collaborative studies and/or research concerning areas of common concern under separate agreements.

Hazardous Material Spills

Several agencies have been involved in the response to the *Selendang Ayu* spill, and a number of agencies and interest groups have discussed options for reducing the risk of future spills of hazardous materials in the Aleutian Islands. The AMEF may be a very useful forum for sharing information relating to actions taken under the individual jurisdictions of the participating agencies. The AMEF may share information relating to measures that are in place to minimize such risks, current initiatives by the participating agencies (or other groups) to develop additional measures, and any actions that might be taken individually by the participating agencies to promote the implementation of effective preventive measures.

User Conflicts

The Aleutian Islands ecosystem supports a wide variety of human uses: fisheries, shipping, national defense, tourism, etc. Are present uses of the Aleutian Islands ecosystem in conflict, either in discrete areas or throughout the Aleutian Islands? The AMEF may identify existing or potential user conflicts and share information about opportunities to minimize such conflicts.

International Resource Management

The Aleutian Islands ecosystem borders international waters and the Russian Exclusive Economic Zone. The AMEF may be a venue where participants share information relating to activities outside of U.S. jurisdiction and how such activities may adversely affect the Aleutian Islands ecosystem.

Great Circle Shipping Route

Trans-Pacific ships travel along the shortest route between Asia and North America, commonly referred to as the Great Circle Route. Vessels passing through the Aleutian Island chain increase the odds that wrecks, oil spills, or loss of human life will occur. This inherent risk requires assessment and action by the Environmental Protection Agency, US Coast Guard, and the State of Alaska. Precautions should be taken to reduce the possibility of ecological damage in the Aleutian Islands, and may include actions that require the participation of the International Maritime Organization and other Pacific nations. A vessel tracking system, including tracking of fishing vessels, may be part of the solution to minimize environmental risk. Forum participants may share information relating to these issues.

Marine Mammals

Critical habitat for Steller Sea Lions (under the purview of the National Marine Fisheries Service and the Alaska Department of Fish and Game) in the Aleutian Islands is primarily located in state waters (0-3 nm from shore). These areas are closed to commercial fisheries, and re-opening to fishing may trigger an Environmental Species Act Section 7 consultation and closure of other commercial fishing areas as a form of mitigation. Sea otters (under the purview of the US Fish and Wildlife Service and the Alaska Department of Fish and Game) in the Aleutians were recently listed as threatened under ESA, but cause of decline is currently unknown.

Human and Fishery Health Risk around Amchitka Island

Amchitka Island was the site of three underground nuclear tests between 1965 and 1971. Radionuclides will leak from the island, but the timeframe for leakage is unknown. Radionuclides could contaminate a wide range of species, and could impact subsistence and commercial fisheries in the surrounding area. Forum participants may share information relating to these issues.

Living and Non-Living Resource Mapping, Information Collection, Environmental Quality Monitoring, and Research

A number of State and Federal agencies are responsible for managing the use of the natural resources of the Aleutian Islands, and enforcing standards for the Aleutian Islands air, land and water quality. Accurate and reliable resource information is needed to support agency resource management and pollution control missions. Funds to collect and analyze resource information are limited and will never be sufficient to acquire the data and apply the science needed to predict the outcomes of agency decisions with complete certainty. Resource data collection, monitoring and research needs to be targeted, cost-effective, and directed toward specific goals, objectives and management priorities. As a practical matter, the risk to Aleutian Islands ecosystem from past, present, and future uses must be taken into account when allocating limited funds to environmental monitoring, scientific investigation, and applied research.

Regional Haze Plan

Regional haze refers to haze that impairs visibility in all directions over a large area. The distance that one can see is limited because of tiny particles in the air absorbing and scattering sunlight, which in turn degrades color, contrast, and clarity of the view. On July 1, 1999 the Environmental Protection Agency announced a rule designed to protect and improve visibility in 156 national parks and wilderness areas throughout the country. The Regional Haze Rule only affects Class I national parks and wilderness areas. Alaska has only four Class I areas subject to the rule, they are:

- Denali National Park and Preserve
- Tuxedni Wilderness Area
- Simeonof Wilderness Area
- Bering Sea Wilderness Area

Simeonof Wilderness Area in the Aleutian Islands ecosystem. States must develop long-term plans for reducing pollutant emissions that contribute to visibility degradation and within the plans establish goals aimed at improving visibility in Class I areas. Haze caused by all sources of pollutants that impair visibility including haze caused from smoke, vehicles, electric utility and industrial fuel burning, and other activities that generate pollution must be addressed. The Alaska Department of Environmental Conservation is developing a State Implementation Plan (SIP) to deal with the haze in Class I areas. See: <http://www.dec.state.ak.us/air/anpms/as/rh/rhhome.htm>

Avian Flu and Influenza Pandemics

Influenza pandemics occur when there is a major change in the structure of a strain of influenza virus such that most (or all) of the world's population is susceptible to infection. Of the three influenza pandemics in the 20th century, two (1957 and 1968) occurred as a result of major changes in the genetic composition of the virus through the recombination of genetic elements from avian and human influenza strains, and one (1918) occurred as a result of adaptive mutations that allowed the virus to be efficiently transmitted first from birds to humans and then from person-to-person. At some point in the future, the world will be faced with another pandemic caused by a strain of influenza virus that spreads rapidly and causes extraordinarily high rates of illness and death—higher, in fact, than virtually any other natural health threat.

Bird migration is one of the possible routes of introduction of avian flu into North America, and an estimated six million birds representing 42 species arrive in Alaska annually. The State of Alaska has prepared a strategy to prepare for and respond to an influenza pandemic, which addresses five key pandemic preparedness and response elements. Forum participants may share information relating to these issues.

Special Status for the Aleutian Islands Ecosystem

The North Pacific Fishery Management Council is currently moving forward with an initiative to establish special status for the Aleutian Islands ecosystem relative to its fishery management jurisdiction. AMEF participants may share information relating to this issue.