

US Fish and Wildlife Service/Federal Highway Administration

MEMORANDUM OF UNDERSTANDING ON COORDINATION
OF HIGHWAY PROJECTS IN ALASKA

A. Purpose

The purpose of this Memorandum of Understanding is to assure early coordination of highway projects with the U.S. Fish and Wildlife Service as required by the Fish and Wildlife Coordination Act (16 USC 661-666c), to avoid unnecessary duplication of effort in the processing of U.S. Corps of Engineers permits, to provide procedures for resolving conflicts and to insure that fish and wildlife resource values are properly addressed in planning, design and construction of highway projects in accordance with applicable laws, policies, and guidelines, including but not limited to Executive Orders 11988 and 11990, Sections 9 and 10 of the Rivers and Harbors Act of 1899, and Section 404 (b) (1) of the 1977 Clean Water Act Amendments.

B. Definition

1. USFWS – this shall mean the Regional Director of the U.S. Fish and Wildlife Service in Alaska.
2. FHWA – this shall mean the Division Administrator of the Federal Highway Administration in Alaska.
3. DOT&PF – this shall mean the Alaska Department of Transportation and Public Facilities.
4. LEAD AGENCY – the Federal Highway Administration is recognized as the Lead Agency in Alaska for highway projects constructed with Federal-aid funds.
5. FEDERALLY-AIDED HIGHWAY PROJECTS – highway and bridge projects constructed with the assistance of FHWA-administered funds.
6. ENVIRONMENTAL DOCUMENT – an environmental impact statement, environmental assessment, categorical exclusions, or reevaluation prepared in compliance with the National Environmental Policy Act (NEPA) under the direction of the FHWA during development of a highway project.
7. CERTIFICATION – a statement contained in the environmental document that certifies that the project complies with applicable laws and regulations.

C. Authority and Agreement

The USFWS must review and comment on all Section 9 U.S. Coast Guard and Section 10 and 404 Corps of Engineers permit applications for highway projects. A significant number of these projects are constructed with the assistance of Federal funds administered by the FHWA.

The Fish and Wildlife Coordination Act requires that all highway projects which require Section 9 and Section 10 and/or 404 permits be coordinated with the USFWS.

Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, require identification and evaluation of related impacts of highway projects on floodplain and wetland areas. The USFWS has the responsibility to evaluate the impacts of these projects on fish and wildlife resources.

It is also agreed that the procedures set forth in this Memorandum of Understanding will be utilized to strengthen the early coordination between the USFWS and FHWA prior to and during the development of the highway project and environmental process. It is the intent of the Memorandum of Understanding that the results of the actions taken will satisfy the requirements of all applicable laws, policies, and guidelines while satisfying the mandated responsibilities of USFWS and FHWA.

D. Responsibility of the FHWA

The FHWA shall be responsible for the preparation of the Environmental Documents as appropriate in accordance with NEPA and applicable Department of Transportation orders and Code of Federal Regulations Title 23, Part 771. These documents shall demonstrate where applicable, consideration of and compliance with Executive Orders 11990 and 11988 and regulations implementing those orders. The regulations are attached to and are part of this Memorandum of Understanding.

The FHWA will require that procedures are implemented by the DOT&PF whereby the USFWS is consulted during the early stages of highway project planning so as to be involved in identification of alternatives, evaluation of environmental impacts, and development of recommendations for mitigation measures where floodplains or wetlands are being impacted.

The FHWA shall certify as to the compliance with the Executive Orders and other applicable laws, policies and guidelines in each Environmental Document when the activity occurs in Federally regulated waters and wetlands or in the 100-year floodplain.

As the lead agency, the FHWA shall be responsible for assuring that issues involving floodplain management and protection of wetlands are coordinated with the USFWS during project development.

