

***NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 02-111-07
JULY 2003***

***Protected Resources Management
Section 6 Agreements***

***COOPERATIVE AGREEMENT BETWEEN NMFS AND THE FLORIDA FISH AND
WILDLIFE CONSERVATION COMMISSION FOR THE CONSERVATION OF
ENDANGERED AND THREATENED SPECIES***

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Signed _____ /s/ 12/19/05 _____
James H. Lecky Date
Director, Office of Protected Resources

FROM :

FRX NO. :7278245309

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FROM FMRI-DIROFC

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Cooperative agreement between the
 United States Department of Commerce
 National Oceanic and Atmospheric Administration
 National Marine Fisheries Service
 and the Florida Fish and Wildlife Conservation Commission for the
 Conservation of Threatened and Endangered Species

This cooperative agreement was entered into pursuant to section 6(c)(1) of the Endangered Species Act of 1973, as amended (hereinafter referred to as "the Act"). Pursuant to Section 9, Article IV of the Constitution of the State of Florida between the United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, and the Florida Fish and Wildlife Conservation Commission. Hereinafter, the parties shall be referred to as NMFS and FWC respectively. All terms contained herein shall be given the same meaning as in section 222.102.

Whereas, the Act authorizes the Secretary of Commerce (hereinafter referred to as "the Secretary") to enter into cooperative agreements in accordance with Section 6 with states that establish and maintain adequate and active programs for the conservation and management of threatened species;

Whereas, Section 9, Article IV of the Constitution of the State of Florida authorizes the FWC to exercise the exclusive powers of the state with respect to wild animals, freshwater aquatic life, and marine life;

Whereas the State of Florida has established conservation programs consistent with the purpose and policies of the Act for the following species of fish and wildlife occurring in the state which have been deemed by the Secretary to be endangered or threatened, and under the jurisdiction of NMFS:

Endangered Species

Smalltooth sawfish (*Pristigaster peCt.ina ea*)

Shortnose sturgeon (*Acipenser hrev.istrostrumJ*)

Right whale (*Subalaena glacialis*)

Hawksbill sea turtle (*Eretmochelys imbri.c.aca*)

ernp's ridley s a t tle (*Lepidochelys kempii*)

Leatherback sea turtle (*D rmocheJys coriacea*)

Green sea turtle (*Chelonimydas*) [Groen turtlu are J.ht!6 as thl:eatend..

except for bree ing opulationa of green turtles in Florida and on the Pacific Coast of Me icoj which are listed aendang• ed.]

Threatened Species

Loggerhead s • urtle (*Caretta ear tta*)

Whereas, the purposes of t:he Act are tc;> prc: v;ide .1 means whereby the eco•v•t•mupon which endangered and thre•tened sp eies depend may be r:ona:rv d, to p OV'ide a program for the conservation of such endolJnge: :ed and threatened •P•c'es, !6 to take sus eps as may be pp opr.i&e to a hiev• thpurposes of the treati@s and conv ntions set forth in Subaaction 2(a) o (the Act;

Whereas, the etary hao delegated to the Assistant Administrator tor t:iohe:riee of NMFS the authority o ent r into eoope ativ•agreements with states for the purpose of sl.lpporing prog\ "ams for endangered and t:ht'eatend species con ervation;

Whereas, the Act requires the secretary to dete ine that: (1) the stata agency is autho ri ed to establih con\$erv tion programs, including the C::Q.\,l.iliition of land or aquatic habita.t, or :l.n.t"!l'•cs cnerein, :for all resid.ent.

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spt;ciell of **fish** and wildlife **listed** in this agreement; (2) the **state agency** is authorized to conduct **investigations** to determine the status and requirements for **survival** of resident species of fish and wildlife; (3) the **state agency** has **made** provision for public participation in designating **resident** species of fish and wildlife as **endangered** or **threatened**; and (4) the **species** listed in this agreement **will be given** immediate attention, as NMFS and FWC agree that those species **are most** in need of **conservation** programs;

Whereas, NMFS hereby determines that FWC satisfies the Act's legal requirements for **cooperative** agreements as **specified in the immediately preceding paragraph**;

Whereas, the parties to this agreement **agree** in accord that the programs administered in Florida are designed to conserve **resident** endangered and threatened species, and that **the** **Department of FWC and NMFS** will cooperate for the common purpose of **planning, developing, and conducting** programs to **protect, manage, and enhance** populations of all **resident** **endangered and threatened** species by **this agreement within the state of Florida**;

Whereas, the Assistant Administrator for Fisheries of NMFS has the administrative authority to establish programs for the **conservation** of **endangered and threatened** species; **therefore** a periodic review of the state **program at no cost** to the state; **to provide** funding for the **development of** **endangered and threatened** species **conservation** programs;

assist in **restoring** **endangered and recovered** species as **much** funding is available and **in accordance** with the terms of the Act; **to provide** coordination among the **programs** of various states; **to exchange** with states **information**

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biological data or other information that may result in the continued
conservation of endangered or threatened species;

Whereas, the Assistant Administrator for Fisheries of NMCS authorize the
Southeast Regional Administrator of NMFS to monitor the implementation of this
cooperative agreement;

Therefore the parties agree as follows:

1. Consistent with Section G(d) of the Act, NMFS may provide financial
assistance to C for the development of **endangered** and threatened species
conservation programs or to **assist in monitoring** candidate listed recovered
species. Such projects shall be developed jointly by NMFS and FWC in
accordance with the Act.

2. NMFS and FWC shall carry out the cooperative program for the
conservation of endangered and threatened species, which may involve law
enforcement, research, management, and public information and education
activities conducted for the benefit of **endangered and threatened**
species in the state of Florida.

3. Pursuant to Section E(1)(c) of the Act, entry into this agreement
shall in no way affect the availability of the prohibitions set forth in
authorized pursuant to section 4(d) and Section 9 thereof with respect to
the taking of any resident endangered or threatened species of fish or
wildlife.

4. **Effective** Date and Renewal

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(a) This agreement shall be effective when signed by the Assistant Administrator or Fisheries of NMFS and the executive Director of FWC, and may be revised in the following manner: No later than June 30 of each year, FWC shall submit to the Assistant Administrator for Fisheries of NMFS the following: (1) the current list of the state listed resident nongame and threatened fish and wildlife within the jurisdiction of NMFS and a description of all changes to such list since the date of the previous submission of the list to NMFS; (2) a certification of any amendments in FWC's regulatory authority for regulatory programs for endangered and threatened fish and wildlife that were made since the date of the previous submission of the program to NMFS; (3) a list of all charges in the endangered and threatened species conservation program since the date of the previous submission of the program to NMFS; (4) a report on the status of all project funds pursuant to paragraph 1. of this agreement; and (5) any additional information requested by the Assistant Administrator for Fisheries of NMFS that pertains to FWC's program for the conservation of endangered and threatened fish and wildlife;

(b) The Assistant Administrator for Fisheries of NMFS will, on or before October 1 of each year, notify FWC in writing whether the cooperative agreement is renewed effective October 1 of that year, or that the state's program or authorities are no longer in compliance with the criteria of Section 6(C) of the Act, and unless appropriate changes are made by June 30 of the following year, this agreement shall be terminated. If FWC has not received notification concerning the renewal of this agreement by October 1 of each year, the agreement shall continue in force and effect as if it had been renewed.

S. Amendments

This agreement may be amended at any time with the written concurrence of the signatories.

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Termination

This agreement may be terminated (a) by mutual agreement; (b) by *FWC* upon 60 days written notice to the Assistant Administrator for Fisheries of NMFS; notwithstanding the renewal provisions in Section 4(b) of this cooperative agreement, by NMFS upon 60 days notice to FWC from the Assistant Administrator for Fisheries of NMFS, stating reasons why the State's conservation program for endangered and threatened species is no longer in compliance with the criteria in Section 6(c) or the Act, or that the State has otherwise violated the provisions of this agreement: FWC may submit a written request for review to the Secretary within 30 days of the receipt of the termination notice. The Secretary shall consider all evidence submitted by FWC in its request for review and either reaffirm the termination of this agreement or reverse the determination of the Assistant Administrator of NMFS and revoke the allocation of Federal funds that have been awarded pursuant to this agreement but not expended by FWC, as of the date of termination of this agreement or final reallocation pursuant to section 6(c).

William T. Hogarth

 William T. Hogarth, Ph.D.
 Assistant Administrator for Fisheries
 National Marine Fisheries Service

7/1/03

 Date

Kenneth D. Haddad

 Kenneth D. Haddad
 Executive Director
 Florida Fish and Wildlife Conservation Commission

Kent Haddad

 Date

APPROVED AS TO FORM
 AND LEGAL SUFFICIENCY

[Signature]
 Commission Attorney