

NETWC

Eric Ham

September 11, 2018

FHWA-NMFS Endangered Species Act Programmatic Agreement

- Potential effects on Atlantic sturgeon, shortnose sturgeon, and Atlantic salmon
- Streamline informal consultation
- Standard reporting form
- <https://www.greateratlantic.fisheries.noaa.gov/protected/section7/reporting.html>

Transportation Activities

- Bridge Repair and Replacement
- Culvert Repair and Replacement
- Docks and Piers
- Slope Stabilization

Project Design Criteria (PDC)

- 32 PDCs
 - Vessel traffic
 - Maintain project vessel speed limits below 10 knots and dredge vessel speeds of 4 knots maximum, while dredging.
 - Habitat effects
 - In Atlantic salmon critical habitat, no culvert end extensions, invert line culvert rehabilitation, or slipline culvert rehabilitation may occur.
 - Direct species effects
 - No blasting or use of explosives will occur.

Flexibility

- Opportunity to make the case that if a PDC can't be applied that a projects will still result in insignificant and discountable effects
- To date, NMFS has been flexible with projects being able to use agreement for processing

Programmatic Essential Fish Habitat Consultation

- Potential effects on listed essential fish habitat and other diadromous fish
- Maine also have Atlantic salmon EFH
~85 Consultations over two year period

Conservation Recommendations

- 41 conservation recommendations that need to be applied to use consultation.
 - Work that produces greater than minimal turbidity or sedimentation in diadromous streams or EFH must not be done during the TOY restriction(s)

Excluded Activities

- 21 Activities that do not qualify
 - $\geq 1,000$ square feet of salt marsh, areas containing shellfish, and intertidal areas
 - ≥ 100 square feet of natural rocky habitat (e.g., bedrock, boulders, cobble, and/or gravel);

Utilization

- Upcoming MaineDOT Projects
 - Potential to cover 50% of our ESA consultations
 - Covering less than 5% of the EFH consultations

Programmatic Consultations



Migratory Bird Treaty Act

- December 22, 2017 'M opinion'
- April 11, 2018 new 'M opinion'

- Clear as mud

Migratory Bird Treaty Act

- FAST Act
 - Provisions for take of species if bridge condition meets a specified condition rating (3 or less)
 - **Bridge maintenance (i.e. painting) often occurs before that condition rating is met.**



CameraName

32°F 0°C

02-04-2015 03:35:05



CameraName

64°F 17°C

04-05-2015 06:24:16