

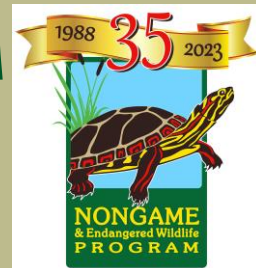
Nongame & Endangered Wildlife Program – Environmental Review NHFG Commission Meeting November 14, 2023



Mike Marchand, Nongame Program Supervisor



NONGAME & ENDANGERED WILDLIFE PROGRAM
WILDLIFE DIVISION
New Hampshire Fish and Game Department



NONGAME AND ENDANGERED WILDLIFE PROGRAM

WHO ARE WE....

- *Endangered Species Conservation Act (1979) RSA 212-A*
- *Program established in 1988*
- *Coordinates protection efforts for the state's wildlife that are not hunted, fished, or trapped.*



ENDANGERED SPECIES CONSERVATION ACT (RSA 212-A)

212-A:3 Findings and Declarations. –
The legislature finds and declares that:

I. Species of wildlife normally occurring within this state which may be found to be in jeopardy should be accorded such protection as is necessary to maintain and enhance their numbers.

Nongame Species Management Act (RSA 212-B)



The legislature finds and declares that:

- I. NH's wildlife resources include more than 300 vertebrates species which normally breed in the state, and an additional 120 bird species which occur as transients, migrants, or wintering populations. Of these 420 species, about 60 are considered furbearers, game birds or mammals, or sport fish.
- II. Native wildlife constitutes an **invaluable natural resource** with ecological, scientific, educational, historical, recreational, economic, and aesthetic values to the citizens of New Hampshire.
- III. It shall be the policy of the state to **maintain and manage this resource for future generations.**



An economic boost. Americans spend \$156 billion on wildlife-focused recreation every year (USFWS 2017 report). An investment in wildlife conservation will result in more outdoor opportunities for all outdoor enthusiasts.

In NH, an estimated **630,000 residents and nonresidents** participate in wildlife-watching activities on an **annual** basis, while generating an estimated **\$281,000,000** per year in economic activity in our state (USFWS 2011 report).

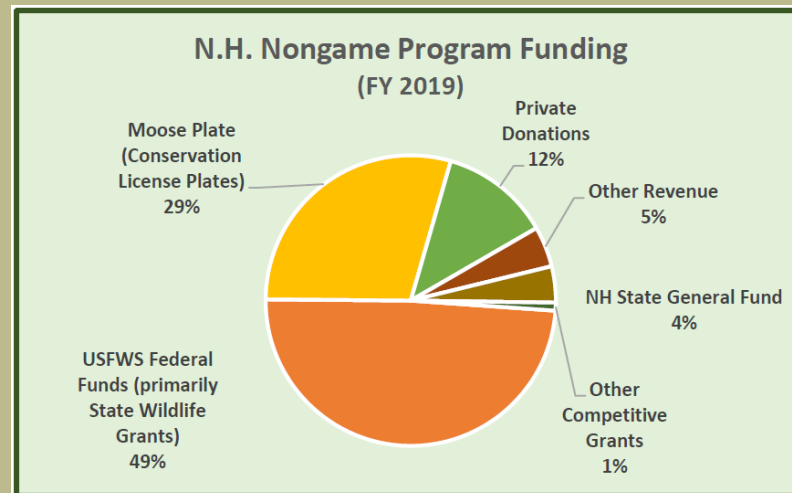
From 2006-2016, wildlife watching estimated participation increased by 21% and estimated expenditures increased by 39% (USFWS 2017 report).



NONGAME AND ENDANGERED WILDLIFE PROGRAM



- Currently 7 full-time staff (nongame funds), 1 part-time (SWAP) & 4 reviewers (federal funds through June 30, 2025)
- Funded by a combination of private donations, a state-matching grant, federal funds, and conservation license plate.

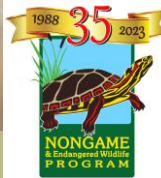




NONGAME AND ENDANGERED WILDLIFE PROGRAM

WHAT WE DO....

- Species monitoring & research
- Species & habitat management, restoration, and conservation
- Conservation planning
- Technical assistance to landowners and land managers and education.
- Coordinate the development and implementation of the NH Wildlife Action Plan.

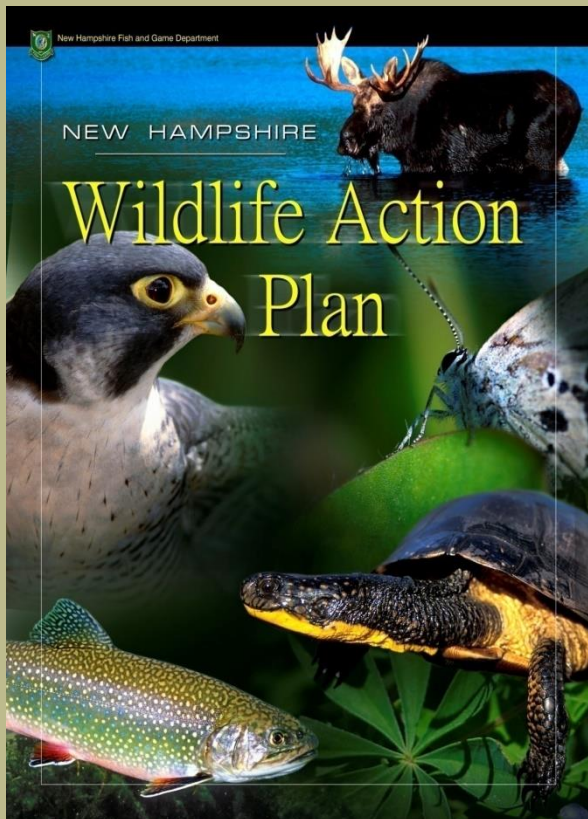


WILDLIFE ACTION PLANS

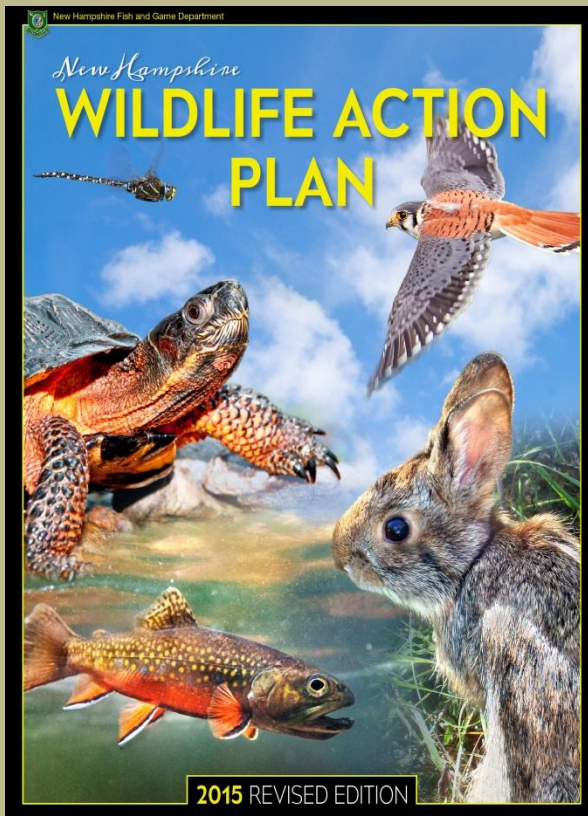
BLUEPRINT FOR WILDLIFE CONSERVATION IN NH.

COORDINATED BY NHFG NONGAME PROGRAM.

DEVELOPED AND IMPLEMENTED BY HUNDREDS OF PARTNERS.

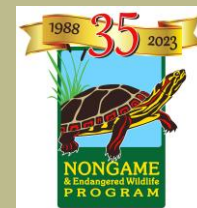


First Plan 2005
123 Species
27 Habitats



2015 Revision
169 Species
27 Habitats

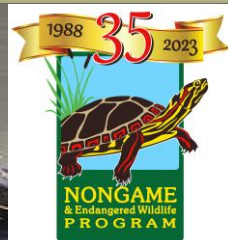
2025
Revision
Underway



NONGAME AND ENDANGERED WILDLIFE PROGRAM

WHAT WE DO....

- Partner with federal and state agencies, NGOs, universities, local governments, and various others to conserve wildlife
- Works closely with the NH Natural Heritage Bureau, Department of Natural and Cultural Resources, to maintain a database of rare and imperiled wildlife populations throughout the state.
- **Environmental Review Program/Permitting**




NHFG ENVIRONMENTAL REVIEWS- RARE WILDLIFE

Environmental Review | State of New Hampshire Fish and Game

https://www.wildlife.nh.gov/wildlife-and-habitat/nongame-and-endangered-species/environmental-review

Environmental Review


Protecting State Threatened and Endangered Species



The NH Fish and Game Department, in collaboration with other state and federal permitting authorities, participates in the review and evaluation of various activities that propose to disturb or modify lands and waters and that need state permits or approvals. Project review for state threatened or endangered wildlife species may be required for certain projects as determined by various state laws and regulations (e.g., RSA 212-A and Fis 1000, see links below).

NH Fish and Game Department - Environmental Review Consultation Rules (Threatened and Endangered Species):

- [Chapter Fis 1000 Conservation of Threatened and Endangered Species](#)
- [Endangered Species Conservation Act- Section 212-A:6](#)
- [Chapter Fis 800 The Importation, Possession and Use of All Wildlife](#)

[Formal Consultation Checklist](#) 

****Effective 02/03/22, updated NH Fish & Game Department rules (Fis 1002-1005) apply to consultation requests for NH Fish and Game review of**

Resources

- [Natural Heritage Bureau](#)
- [NHB DataCheck Tool](#)
- [Land Development- DES](#)
- [Wetlands- DES](#)

NHFG AUTHORITY: LAWS AND RULES

- RSA 212-A -Endangered Species Conservation Act
- FIS 1000 – Conservation of Threatened and Endangered Species
- Other NHFG Statutes/Rules – Protected Wildlife
e.g., RSA 209:9 Golden and Bald Eagles
- Other State Department Rules and Regulations
(Department of Environmental Services Wetlands and Alteration of Terrain)
- MOA with Departments of Environmental Services and NH Natural Heritage Bureau
- U.S. Endangered Species Act – overlapping but independent authority for some species.

RSA 212-A ENDANGERED SPECIES CONSERVATION ACT

212-A:5 Wildlife Species. –

*II. The executive director shall, by rule, establish such limitations relating to **taking**, possession, transportation or sale as may be deemed necessary to conserve threatened or endangered species.*

212-A:7 Prohibited Acts. –

I. With respect to any endangered or threatened species, it is unlawful, except as provided in RSA 212-A:7, II for any person to:

(b) Take any such species within this state;

212-A:9 Conservation Programs. –

*III. **All other state departments and agencies...** shall assist and cooperate with the executive director in the furtherance of the purposes of this chapter for the conservation of endangered or threatened species. They shall take such action as is reasonable and prudent to insure that **actions authorized, funded, or carried out by them do not appreciably jeopardize the continued existence of such species or result in the destruction** or modification of habitat of such species which is determined by the executive director to be critical, **by requiring that all such action is designed to avoid and minimize harm to such species and habitat designated as critical...***

NHFG REVIEW PROCESS: HOW WE GOT HERE...

- <2017 – NHFG nongame staff review state permit applications submitted to Department of Environmental Services (NHDES) under MOA (wetlands, alteration of terrain, shoreland). *Some changes occurred over this timeframe.*
- 2017-2019 – A NHDES Alteration of Terrain (AOT) permit was challenged and was overturned by NH Supreme Court.
- 2019-2020 - NHDES AOT program changed rules pertaining to NHFG review of projects.
 - Rules required a wildlife assessment for all projects. NHFG staffing not sufficient for procedure change and project reviews were delayed.
- 2020 - NHFG and NHDES held several joint input sessions to inform direction of future rules. Participants recommended NHFG develop rules.

- **2021 - SB 129 modified RSA 212A**
 - Edited RSA 212-A:9 III to: “... actions authorized, funded, or carried out by them do not *appreciably* jeopardize the continued existence of such species or result in the destruction or modification of habitat of such *species... by requiring that all such action is designed to avoid and minimize harm to such species and habitat designated as critical.*”
 - Added a Mitigation Fund (RSA 212-A:16)
 - Required NHFG to develop FIS Rules

- 2021-2022 - NHFG and NHDES AOT went through public rule process to update rules.
 - NHFG FIS 1002-1005; Rules Effective 2-3-2022
 - New NHFG rules created new administrative procedure with required review timeframes.
- 2022 - 4 new temporary staff (3 reviewers, 1 planner) were hired and trained and review procedures implemented; funding available through FY25. No dedicated long-term funding available for review staff.

CHAPTER Fis 1000

Conservation of Threatened and Endangered Species

Fis 1001 Protected Species (List of Endangered and Threatened Species)

Fis 1002 Definitions

conservation measures, harm, etc.

Fis 1003 Standards Applicable to All Projects

Fis 1004 Consultation

Fis 1005 Administrative Review of Recommendations

Fis 1006 Threatened and Endangered Species Compensatory Mitigation Fund

PART Fis 1004 CONSULTATION

Fis 1004.01 Consultation.

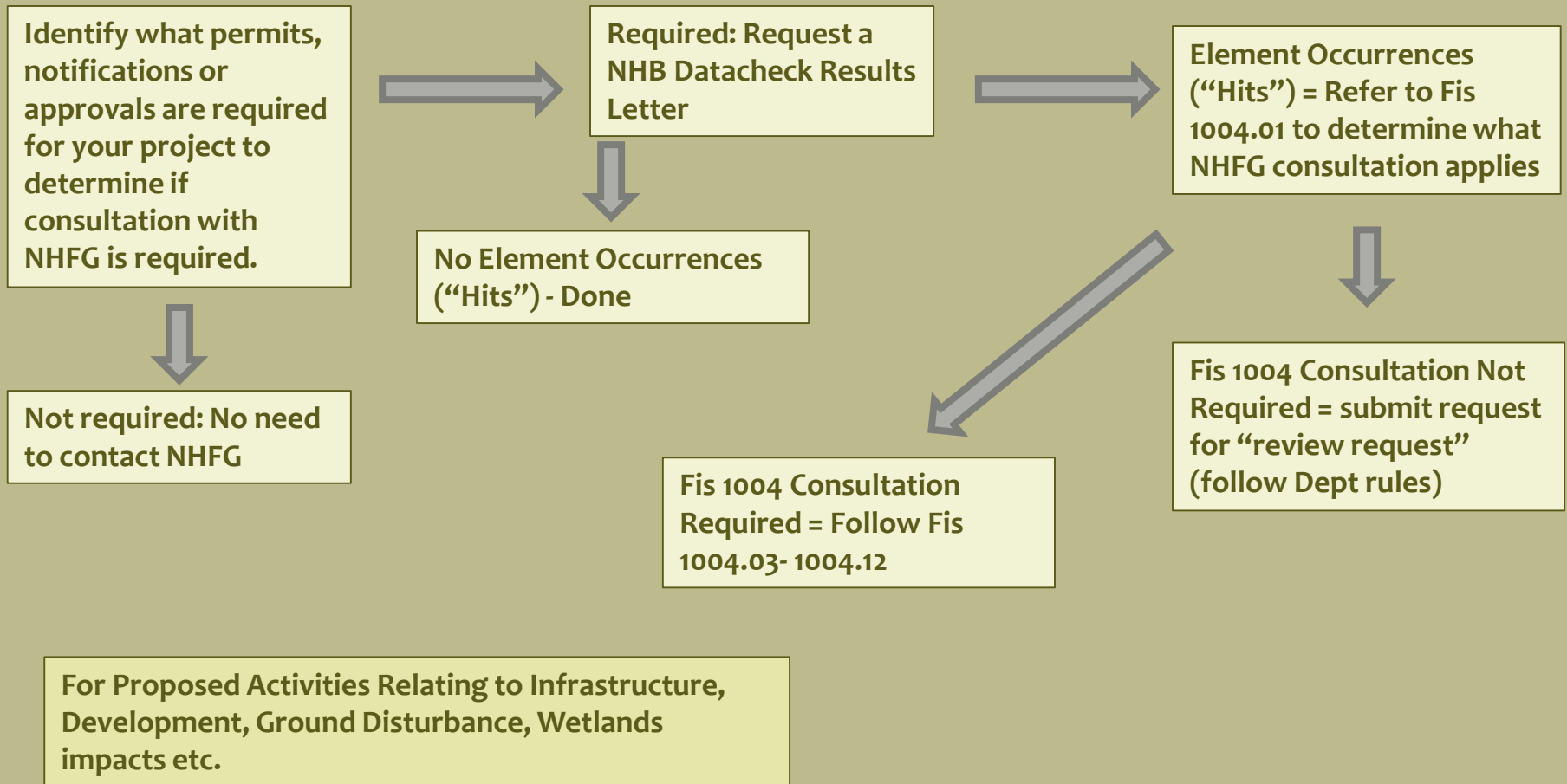
(a) Pursuant to RSA 212-A: 9, III, an applicant, as herein defined, shall request site specific consultation with the department if required by a state agency as part of a request for issuance of a permit, approval, or other written authorization from that state agency.

(b) The requirements of Fis 1004 shall not apply to proposed actions authorized by a state agency through a statutory permit by notification, permit by rule, permit by notification, routine roadway registration, docking structure registration, or conditional authorization by rule.

Fis 1004.01 (b) includes certain activities that meet DES criteria including certain types of forestry, trails, agriculture, utilities, single lot residential driveway, certain repair and maintenance activities, etc. See DES rules Env-Wt 300.

[CHAPTER Env-Wt 300: PERMITS AND OTHER AUTHORIZATIONS; CONDITIONS APPLICABLE \(nh.gov\)](#)

Do I need to submit review request to NHFG?



NHFG FIS 1004 CONSULTATION PROCESS

Submit “Information Required for Consultation” (Fis 1004.03, 1004.04)



Information is received by NHFG and reviewed for consultation completeness

1 - 30 days



Applicant is notified if additional information is necessary to complete review (FIS 1004.05-1004.06)

NHFG Review is paused until information is received (up to 1-year)



Not required: No need to contact NHFG



No additional information is required to complete review (may still include communications for clarification or conservation measure discussions).

1 - 60 days



NHFG provides recommended permit conditions/conservation measures to applicant

Review clock re-starts once All information requested is submitted*

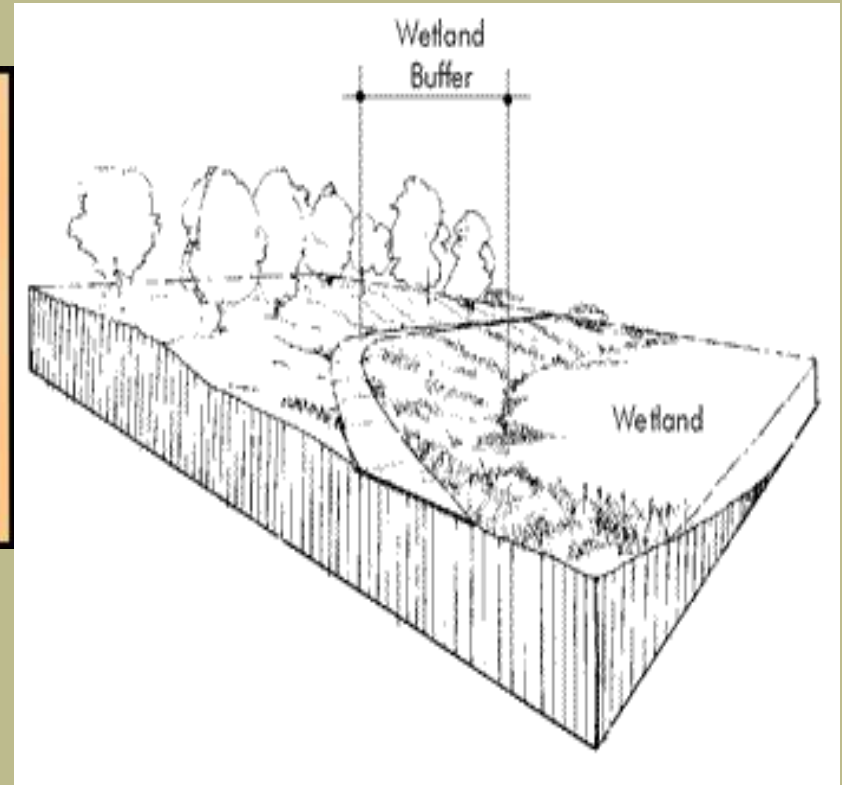
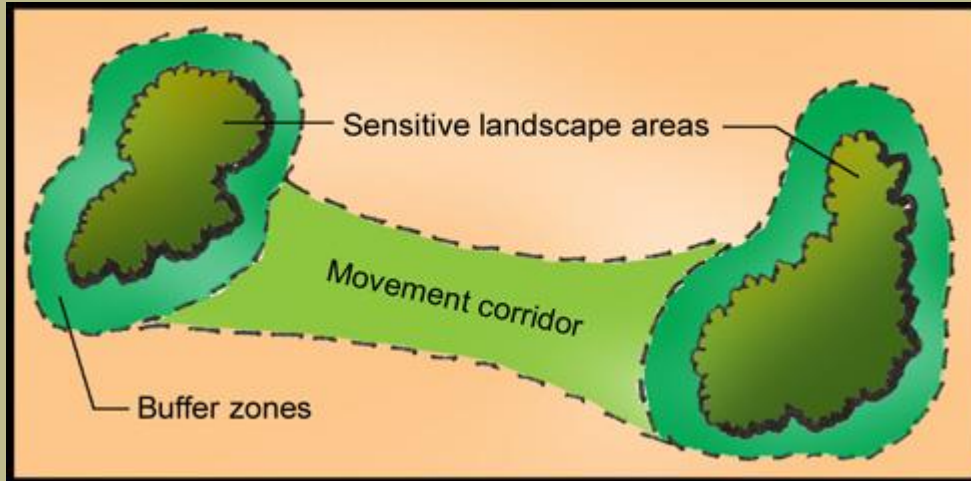
Fis 1004 Consultation Required = 1-60 days provided no additional information, extensions or requests for further consultation are required or requested.

Conservation Measures

Fis 1004.03 (c) 12 Conservation Measures to avoid, minimize, or mitigate potential harm to threatened and endangered species and habitat determined to be critical, including but not limited to:

- **Design modifications** to proposed actions to protect species from harm.
- Modifications to proposed actions such as **alteration of the timing** of proposed actions to protect species from harm.
- Design **crossing structures** to maintain and enhance habitat quality and accommodate movement of species;
- **Education and training** for construction personnel as to what construction activities have the potential to cause adverse impacts to species.
- **Signage** to identify specific locations where construction activities have the potential to cause adverse impacts to species.
- Continued **research and monitoring** of identified species
- **Protection or restoration of wildlife corridors**
- Maintenance, enhancement, or protection o habitat **buffer areas**
- **Habitat protection, management, or restoration.**

Principles of Conservation & Wildlife Biology are applied by NHFG biologists in the Conservation of Species.

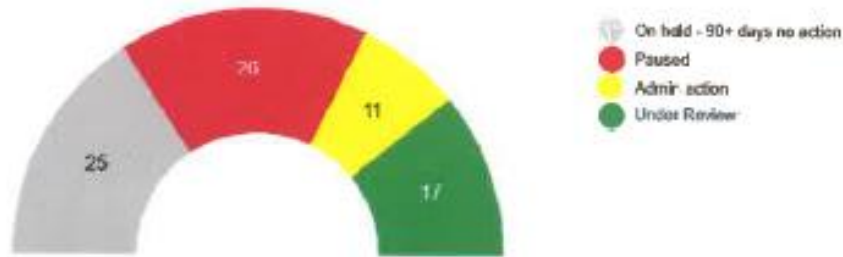


- Best Management Practices are Helpful but...
 - Each Species is Unique in their Habitat Requirements & Often Complex (Wildlife Move!)
 - Each Site/Landscape is Unique (Habitat availability, threats, condition of wildlife population, etc.)

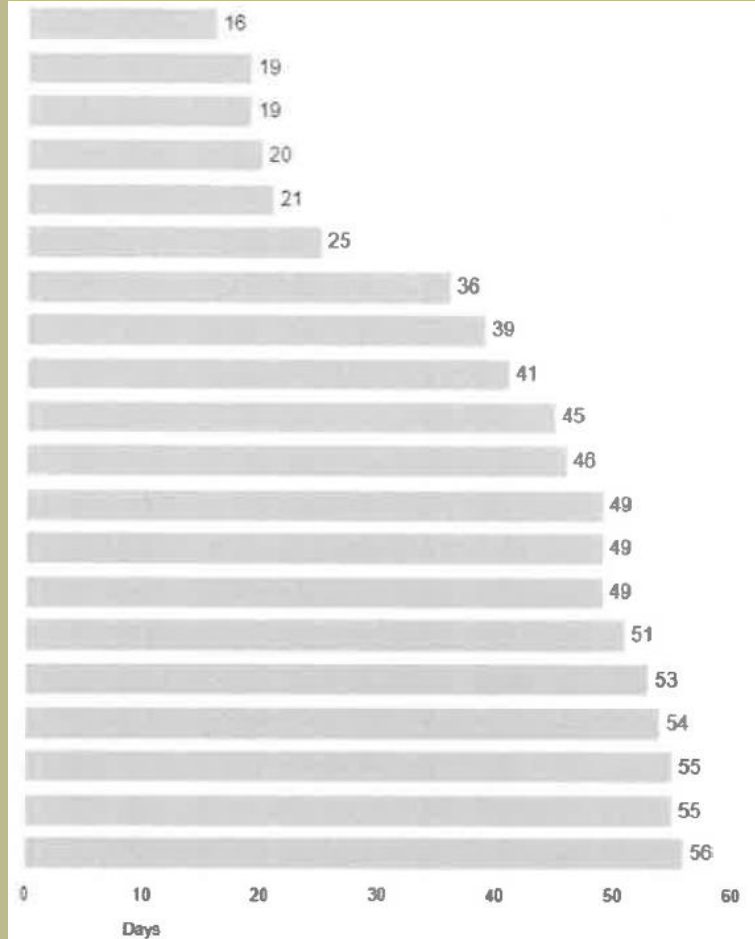
Project Tracking

FIS 1004 Compliant Projects TRACKING DASHBOARD

Current Project Statuses (formal)



Active projects: Working days remaining



Working days per project averages

Average applicant RFAI response: **124.82032**

Avg NHFG duration per project: **22.14539**