

New conservation program proposed by state of Maine to protect endangered Atlantic salmon

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The Maine Department of Marine Resources is proposing to establish and sponsor a new program mitigating harmful impacts to endangered Atlantic salmon and their habitat.

The U.S. Fish and Wildlife Services listed the Atlantic salmon population in the Gulf of Maine as endangered on Dec. 17, 2000 and further inland on June 19, 2009.

Predation, starvation, disease, environmental degradation, and poaching led to the Fish and Wildlife Service designation. Historic and recent activities such as road and bridge maintenance and construction have further damaged the population.

The proposed Atlantic Salmon Restoration and Conservation Program can protect Maine Atlantic salmon by increasing the flexibility of permit applicants to meet requirements for compensatory mitigation.

Compensatory mitigation is the restoration, creation, enhancement, or preservation of wetlands, streams, and other aquatic resources to offset unavoidable adverse impacts, and its goal under the Endangered Species Act is no net loss of species and their habitats. The U.S. Army Corps of Engineers requires mitigation to counter unavoidable adverse impacts under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

Section 404 provides three mechanisms for compensatory mitigation: mitigation banks, permittee-responsible mitigation, and in-lieu fee programs. The proposed Atlantic Salmon Program is an in-lieu fee program. Federal regulations recognize in-lieu fee as an option to correct shortcomings in existing mitigation techniques.

"It's very hard to mitigate project to project, especially for small projects, because the permittee may have difficulty finding an acceptable mitigation project that is financially feasible considering the amount of impact," said Ruth Ladd, Third-Party Mitigation Program Manager.

In-lieu fee allows permit applicants to pay a governmental or non-profit entity to satisfy compensatory mitigation requirements.

The program's sponsor sells credits to the permit applicant, and the applicant's mitigation obligation is then transferred to the sponsor. In-lieu fee unifies compensatory mitigation projects and resources to target more ecologically significant activities.

"In other words, there will be an opportunity to pool the limited funds together so we can actually do a decent project," Ladd explained.

Ladd and the New England District's Regulatory Division are currently reviewing public comments and ensuring the proposal conforms with Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 7 of the Endangered Species Act.

"If the program is approved, Regulatory and an interagency review team will approve funding for projects and then review all project documents including deeds and easements, mitigation plans, and monitoring reports, plus make site inspections. "It's absolutely a lot of fun and very rewarding: but it's also a lot of work," added Ladd.

The decision whether to authorize the sponsor to develop a draft in-lieu fee instrument will be based on the District Engineer's determination of the agreement's potential to provide compensatory mitigation for activities authorized by Department of the Army permits and on the Fish and Wildlife Service's determination that impacts to Atlantic salmon can be adequately compensated by the Atlantic Salmon Restoration and Conservation Program.