

NH Fish and Game Department
Information Regarding Environmental Permitting
Submitted to The Honorable John Stephen
January 26, 2025

The information compiled within this document was used to provide information to Governor Ayotte and her team during December 2024. The data used is from January 1 2022 – December 24, 2024 timeframe, unless otherwise stated, to ensure the most relevant and up-to-date information was considered when addressing the information request. This timeframe coincides with the development of the New Hampshire Fish and Game (NHFG) permitting rules, process, tracking, and other affiliated systems.

Associated relevant information

Prior to 2022

The process for environmental review was less developed and NHFG was requested by Department of Environmental Services (NHDES) per their rules to provide technical review on applications that affected wetlands, storm water, alteration of terrain, etc. At the time the review process under NHFG was not articulated through formal rules. NHFG had one non-game funded staff member that worked on environmental reviews and there was no tracking system in place to monitor progress of applications.

As the demands increased for environmental reviews, particularly with the alteration of terrain (AoT) permits and as NHDES revised the rules relating to AoT, NHFG formally adjusted reviews to only those projects that have known occurrences of protected species rather than all projects that fell under the NHDES AoT rules. NHDES subsequently changed the AoT rule to reflect this reduced review by NHFG.

Between February 2022 and the present day, several significant improvements were made, including: adoption of NHFG rules reflecting a procedure for review with timelines and exceptions for projects, increasing review capacity by hiring temporary full time staff and a dedicated supervisor, improvements to the DataCheck tool to determine occurrence of protected species, development of a project tracking system, website development, improved communication and interagency agreements, and work on standard recommendations for common activities. Work to improve and increase efficiencies within each of these arenas continues.

Since the implementation of the enhancements mentioned above the environmental review process has improved. We are still in the infancy stages as these improvements have only be in place a few years. Below is information that illustrates the more recent results from those enhancements.

Projects Reviewed & Completed by NHFG Environmental Review Unit: January 2022 – December 24, 2024

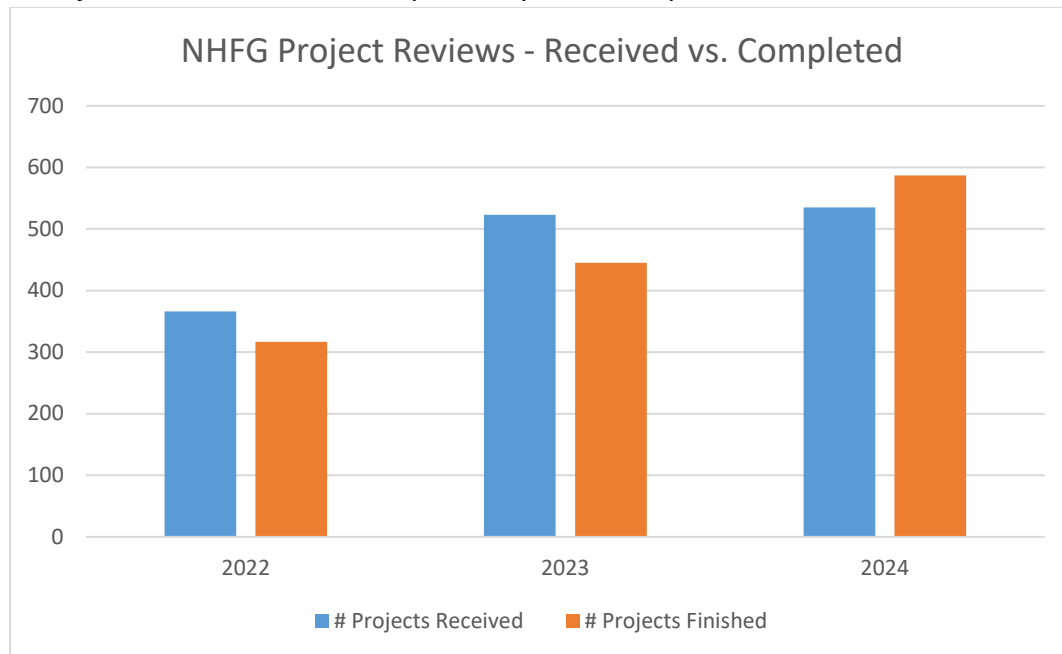
- Total project reviews completed by NHFG = 1,349 (2022-2024)
- Average of 450 projects completed by NHFG per year
- Average of 1.7 projects completed per business day (based on 260 business days per calendar year excluding employee leave time)

NHFG Project Review Requests Received & Completed 2022-2024

These numbers do not reflect the projects that were submitted prior to the implementation of the new rules (2022) which included new timelines. Those projects (approximately n=50 AoT permit applications with protected wildlife records) were still being processed and worked on but were not subject to the newly implemented timelines.

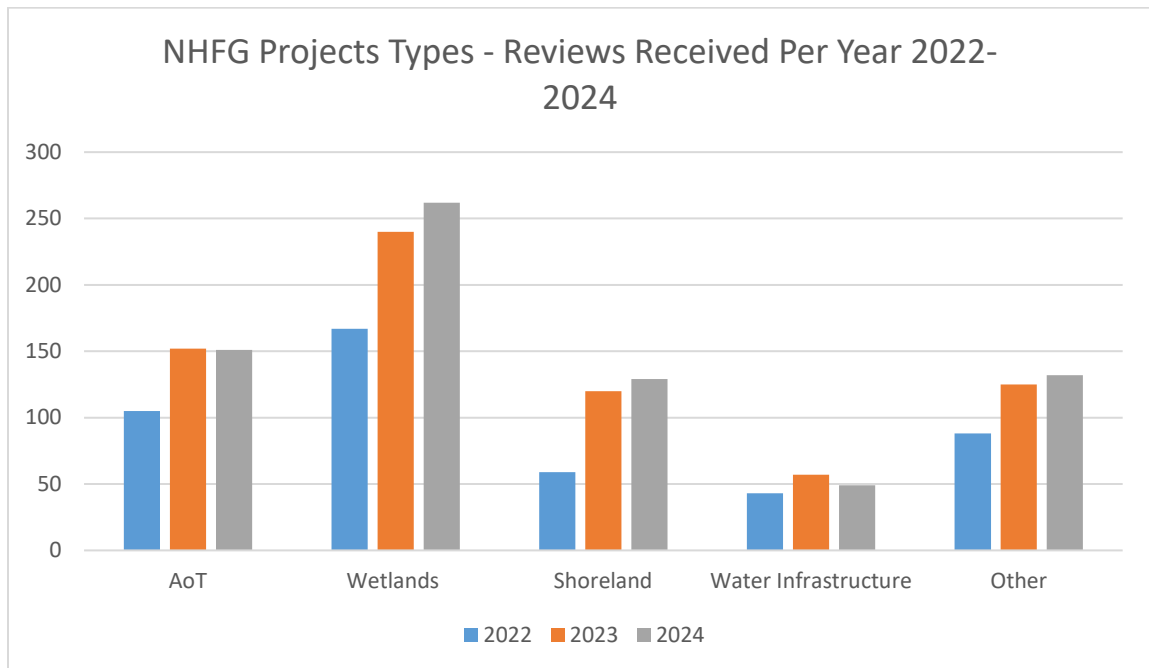
- From 2022-2024, the # of project requests received by NHFG have increased from 336 (2022) to 535 (2024).
- From 2022 to 2024, the # of projects completed by NHFG have increased from 317 (2022) to 587 (2024).
- During 2022 and 2023, the number of project requests received exceeded the number of projects completed by NHFG. During this time NHFG was moving through the backlog of projects that were in process prior to the newly adopted rules.
- During 2024, the number of projects completed by NHFG exceeded the number of projects received within the year. This shift demonstrates an increased efficiency in reviews and a demonstrated effort by the new Environmental Review supervisor position (started Feb 2024) and review staff to complete all older projects received in the previous years.

Figure 1. Projects received versus completed by New Hampshire Fish and Game, 2022-2024.



Review Requests – By Permit Type:

Figure 2. Number and types of projects requiring New Hampshire Fish and Game review, 2022-2024.



Note in the figure above that permit type numbers exceed the total projects reviewed because one project review could involve multiple permit types. For example: Wetlands permits include all wetland permit types.

Also, these statistics (illustrated above) do not include:

- Projects that NHFG determined, during weekly meetings with the Natural Heritage Bureau (NHB), wouldn't result in impacts to a protected species and required no further consultation with NHFG. These projects indicated an association with threatened or endangered species through the DataCheck Tool. However, initial review by NHFG and NHB staff determined the proposed activities were unlikely to impact the threatened and endangered species documented at the project site.
- Projects that were identified by the NH DataCheck Tool as not having impacts to threatened or endangered species (automated web-based screening).

Requested Information:

AVERAGE TURNAROUND TIME FOR PERMIT DECISION (FROM DAY OF RECEIPT TO DECISION)

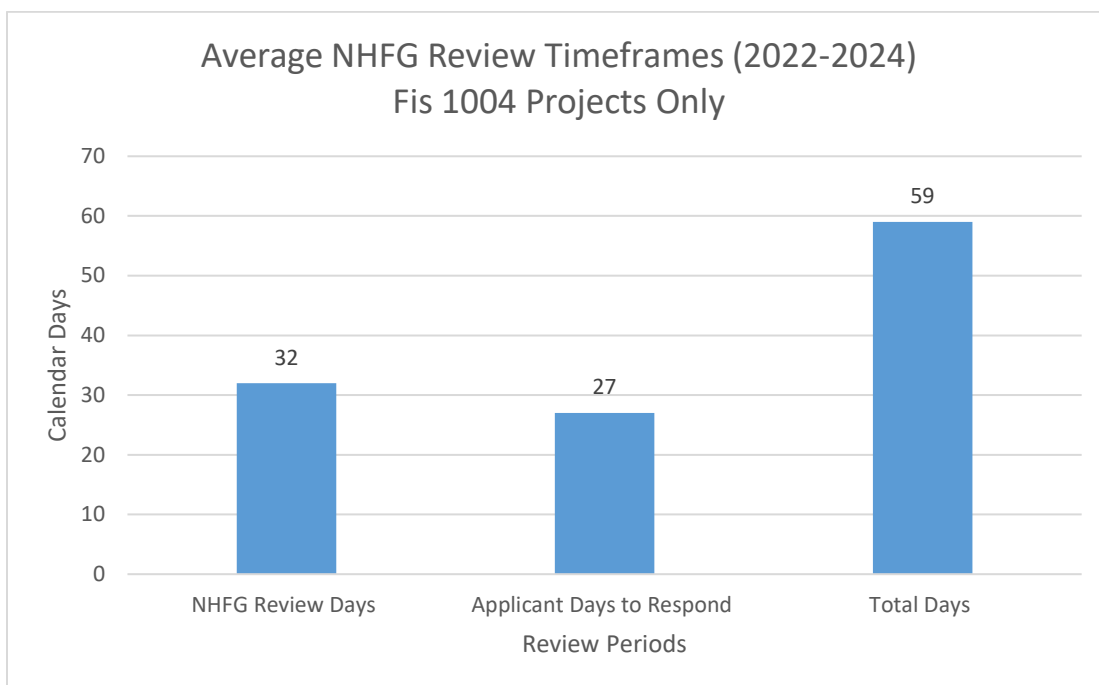
Project Review Timeframe:

Current NHFG rules require reviews to be conducted within 60 calendar days minus any time where NHFG is waiting for the applicant to provide information following a notice of being administratively incomplete or requiring additional information for NHFG to conduct project review.

Since January 2022, the **average time of review** by NHFG for projects submitting for consultation under FIS 1004 rules was **32 days** (Figure 1). Current rule (FIS 1004) allows NHFG a 60-day review period.

On average, NHFG waited **27 days for applicants to respond** with information for a total average review period of 59 days (Figure 1).

Figure 3. Average review timeframe for New Hampshire Fish and Game, 2022-2024.



Complex projects that propose to impact threatened and endangered wildlife may exceed these averages. Therefore, the currently allowable full 60-day period consisting of only NHFG review period (not including timeline stoppages associated with waiting for applicant) is necessary to effectively protect threatened and endangered species.

Projects Exceeding 60 Total (NHFG and Applicant Response) Calendar Days:

Approximately 18% of ALL projects (AoT, wetland, stormwater, etc.) completed 2022-2024 **exceeded 60 total calendar days**.

- *Note this is 60 total consecutive calendar days following an applicant submitting an application to NHFG, not the 60-day allowance for NHFG to conduct a review as authorized through rule (FIS 1004).*

- *These include projects where NHFG was waiting for applicant(s) to respond to Request for Additional Information.*

Pertinent Context / Characteristics of Projects That Exceeded 60 Total Calendar days:

- Projects that have high likelihood of harming threatened/endangered/protected wildlife.
- Projects where avoidance and minimization of harm is difficult/impossible due to project footprint consuming majority of parcel (more typical for commercial/industrial development).
- Projects where NHFG submits a *Request for Additional Information* to the applicant as allowed per NHFG Fis rule. Total calendar days is strongly influenced by the responsiveness of applicants to the request.
- Projects where applicant requests 'Further consultation' with NHFG per Fis 1004.12 following NHFG submitting conservation measures to the applicant.
- Projects where onsite or offsite mitigation is needed to compensate for harm to threatened or endangered species.
- Projects where a conservation deed/easement is proposed to serve as avoidance, minimization, and mitigation of harm and requires review and revision of deed language by NHFG, applicant, and sometimes NHDES.
- Projects where a targeted wildlife survey is needed to assess potential impacts to threatened or endangered species before conservation measures can be provided by NHFG to applicant (e.g., black racer den survey, freshwater mussels for in-water work).

Note: It is important to recognize that even during this transition of improvement (i.e. rules, process, data tracking, etc.) there was and is inherent learning curve for the applicant(s) which contributed to extending the period of time, especially during 2022. For example: the NHFG Fis 1004.03(c) identifies 12 items that shall be provided to NHFG with the request for consultation but applicants frequently provided incomplete information. To facilitate applicants providing complete information, NHFG developed and posted on website a checklist for applicants to help ensure applications would be administratively complete.

STEP BY STEP PROCESS FOR ENVIRONMENTAL PERMITTING

Prior to requesting a consultation with NHFG on a project review, project applicants must check for the presence of known protected wildlife through an online DataCheck Tool at the Department of Natural and Cultural Resources Natural Heritage Bureau website. This DataCheck will determine whether further consultation with NHFG is required. Project applicants may be private entities needing permits from another state agency (e.g., Department of Environmental Services) or direct request from another state agency (e.g., Department of Transportation). Per NHFG rules, consultation requests may be sent to NHFG before, during or after DES has received an application. However, consultation requests to NHFG must include adequate information in order to complete reviews. Some NHDES permits (e.g., AoT, Wetlands) require documentation of consultation with NHFG prior to issuing a permit and may identify this as a need in a DES Request for More Information.

Applicants may choose to go directly to NHFG before contacting or applying through DES. These applicants can check NHFG web site for information regarding requirements for NHFG review on proposed projects (<https://www.wildlife.nh.gov/wildlife-and-habitat/nongame-and-endangered-species/environmental-review>).

Some applicants request a preapplication review with NHFG. However, once applicants submit a formal consultation request to NHFG, the Department's required timeframes are initiated.

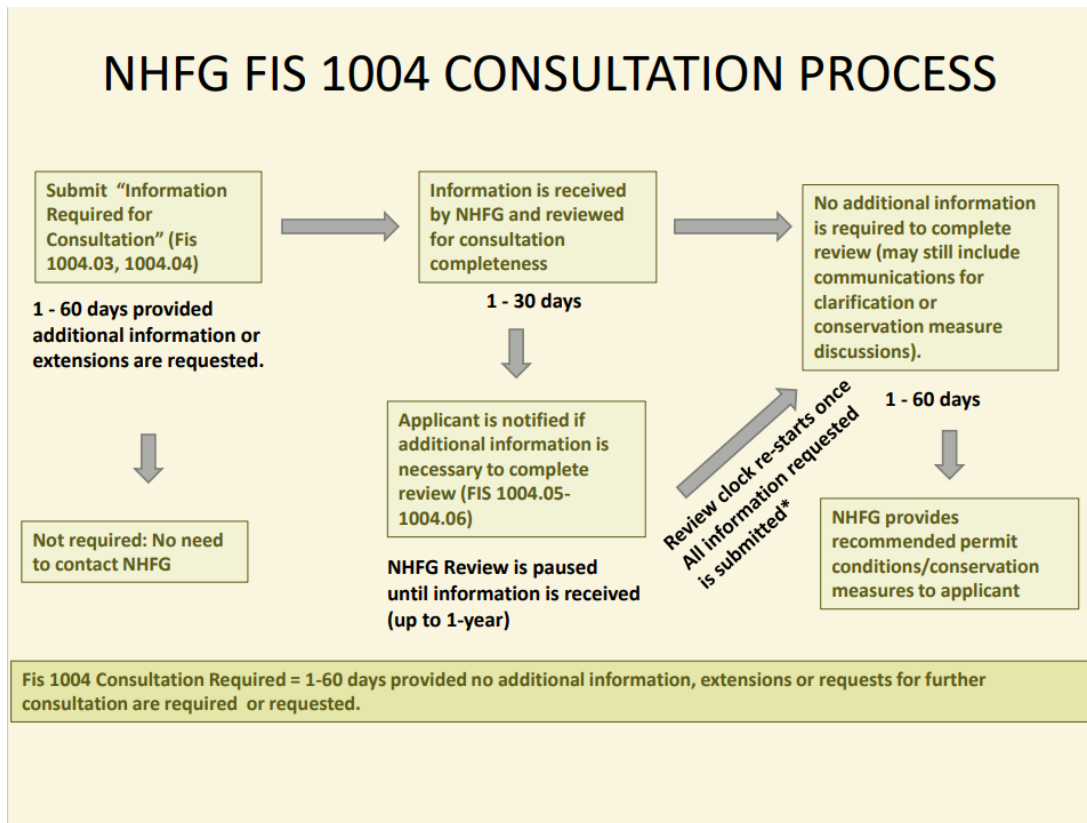
Applicants that start with the NHB DataCheck Tool (DCT, <https://www.wildlife.nh.gov/wildlife-and-habitat/nongame-and-endangered-species/environmental-review>) can quickly determine if there are any NHB records found. If no records are found then the applicant can choose immediately to get a letter to state that effect at no charge. If the DCT does indicate NHB species or community records then the applicant can request a review of the project's impact by submitting a reequest with the \$25 review fee.

Below is a flow chart illustrating the necessary process steps for projects that relate to infrastructure development, ground disturbance, wetland impacts, and other types of water runoff. Much of the process depends upon the type of project, the species affected, the timing of the project, and cumulative impacts of the project inconjunction with other projects in the vicinity.

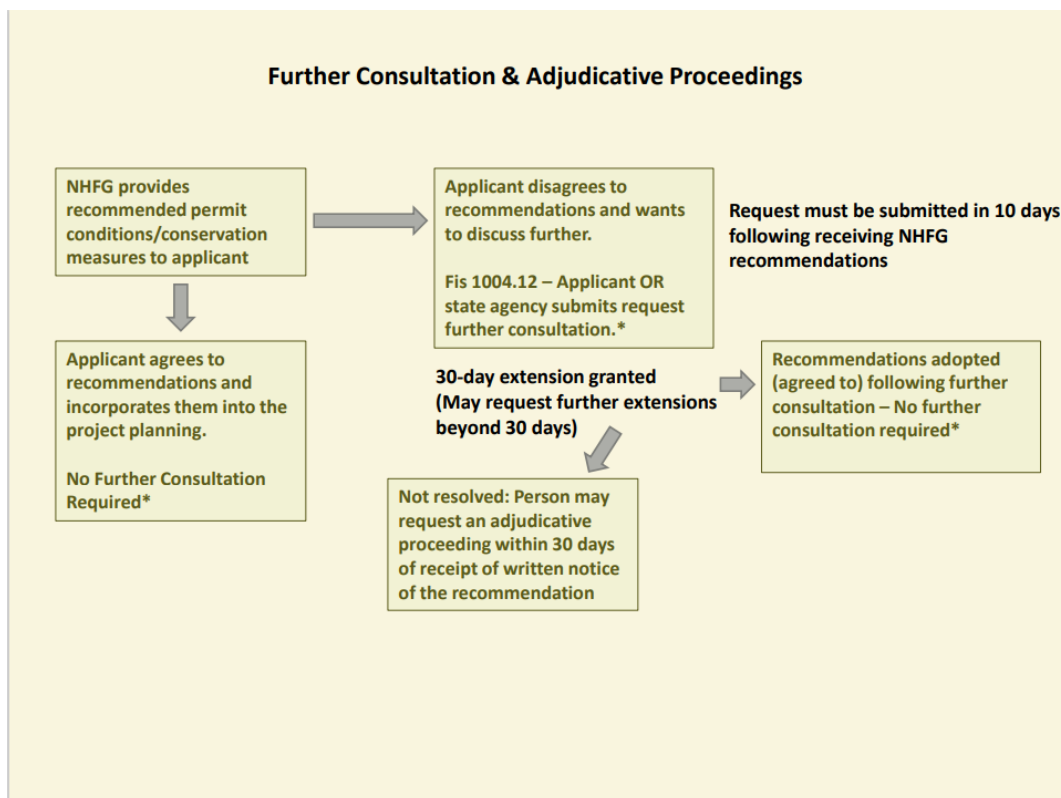
Initial process for environmental review for projects:



If consultation is deemed necessary:



Once recommendations are provided to the applicant, the applicant may agree and proceed with the project or disagree and request further consultation.



Documented points that cause delays in the process:

In addition to the points made under “Pertinent Context / Characteristics of Projects That Exceeded 60 Total Calendar days”, the following issues can cause delays in the process:

- Changes in the project design, scope of work, or location,
- Changes in materials or work methods,
- Other projects within the vicinity of the proposed project,
- Intent to have additional projects within the vicinity of the proposed project.
- New discoveries of sensitive species or habitats.

Keys for a successful process:

- Submit EARLY in project development – incorporate NHB / NHFG recommendations into design. Avoid last-minute inquiries,
- Provide pertinent details in project description:
 - Proposed/estimated work timeframe
 - Work methods/materials
 - Planned protective measures (e.g., wildlife-friendly matting)
 - New clearing/ground disturbance v/s work within existing impervious areas
 - Square feet/ linear feet of ground disturbance or wetland/stream impacts, vernal pool impacts
 - Temporary disturbances (ESCs, staging) can impact wildlife and plants
- Submit OFTEN if a multi-year project (e.g., yearly, when letter expires). Database records are continuously being added/updated,
- Submit when project CHANGES scope, timing, or other updates – we may have additional comments if additional impacts. Inquire if unsure,
- Submit prior to SITE VISITS to combine on-site surveys (e.g. wetland delineation and plant/wildlife surveys). Plan ahead in case surveys are needed.

- Provide survey results once surveys are completed, if design modifications are necessary due to the survey results, please identify and communicate those changes,
- Maintain consistency in project name or reference identification,
- Plan for on-site monitoring.

POSITIONS RELATED TO PERMITTING PROCESS

NHFG currently uses 5 dedicated staff members to fully perform the duties of environmental permitting, with technical assistance from numerous biological staff to provide site specific or species-specific information.

- Three full-time temporary staff positions are responsible for executing the permits through the process,
- One full-time temporary staff manages the data systems and the coordination of team tasks and deadlines,
- One full-time permanent position oversees the program and administers the operations of the team, while actively enhancing the program and its processes.
- Various full-time biological staff assist NHFG reviewers by providing species-specific technical review and findings for projects.
- One Administrator for the Nongame & Endangered Wildlife Program provides general oversight to environmental review unit.

Note to fully improve productivity, full-time permanent staffing is needed. NHFG has experienced frequent turnover due to the temporary status the of four full-time temporary positions.

In addition, one more position would bring the number of permits per staff member to a lower number which would allow the administrator to perform the necessary duties to implement advances in the program and focus on higher level needs of the program.

Salary information and Funding Source for each position

The four full-time non-permanent positions are funded through ARPA/GOFERR funds until December 2025

- 3 positions are funded through a direct grant from GOFERR,
- 1 position is funded through an MOU with NHDES using ARPA funds
- Total budget

Description	Approved Budget	Expected Expenditure by 12/31/2024	Estimated Costs CY 2025	Estimated Remaining Funds CY2026
Fulltime Temp Personnel (n=4)	\$331,263.00	\$86,940.00	\$223,834.00	\$20,489.00
Full-time Temp Benefits (n=4)	\$225,319.00	\$41,514.00	\$106,881.00	\$76,924.00
TOTAL	\$556,582.00	\$128,454.00	\$330,715.00	\$97,413.00

- This table reflects the funding by calendar year due to the Federal requirements of ARPA. The column Estimated Costs Calendar Year 2025 provides the estimated costs to maintain the 4 positions per calendar year. The APRA funds remaining for personnel are estimated to fund these positions through December 2025 and do not carry through the state fiscal year. Approval from Governor and Council is required to allocate the funds beyond July 1, 2025.
- Calendar year 2026 reflects the estimated remaining ARPA funds for personnel. These remaining funds are a direct result of staff vacating positions. These funds, if allocated by Governor and Council will only carry these positions for approximately one month or less. To adequately fund the positions for FY 2025-2027, an estimated \$400k is needed.

The remaining positions include: One full-time permanent position funded through the non-game program funds (Federal funds, Conservation license plate funds, and donations) and a full-time equivalent using time invested by biologists and a program administrator serving as technical assistants. These funds are estimated on fiscal year basis.

- 1 position biologist equivalent
- 1 position is the program administrator and supervisor
- Total budget

Description	FY 2026	FY 2027	TOTAL
Full-time Permanent Personnel (n=2)	\$159,877.50	\$161,605.50	\$321,483.00
Full-time Permanent Benefits (n=2)	\$86,954.82	\$91,274.67	\$178,229.49
TOTAL	\$246,832.32	\$252,880.17	\$499,712.49

AREAS F&G CAN MAKE IMPROVEMENTS TO EFFICIENCY OF PERMITTING PROCESS WITHIN THE NEXT 3-6 MONTHS

First and foremost is to determine the specific issue or concerns that remain since the recent adjustments and improvements have been made. Next is to recognize that NHFG's role is only a part of the larger process, therefore it is imperative that the agencies involved (NHFG, NHDES and NHDNCR) work together to determine the limiting factors and collaboratively develop strategies to minimize those factors.

At NHFG we see the following steps to facilitate a more efficient program:

- Seek securing funding for converting non-permanent positions to full time permanent.
- Review feedback received through the development focal group meetings held for the Wildlife Action Plan to identify concerns.
- Continue working with development organizations, permit applicants, state agencies to gain an understanding of the applicant's experience and help identify areas for improvement.
- Enhance communication:

- Web page improvements to clarify the process, including steps, information needed, who to contact, projected timelines, etc.
- Develop other informational materials regarding the permitting process and environmental review – examples: “how to” video, trifold pamphlet.
- Work with NHDES and NHDNCR to implement ways to enhance cross agency coordination, customer engagement, and outcomes.
- Implement an MOA between NHFG, NHDES, and NHDNCR that articulates scope of authority, roles, and responsibilities for each agency to cooperatively work together and meet the agreed upon objective.
- Develop Best Management Practices for commonly impacted species and permitted activities.

OTHER COMMENTS/QUESTIONS:

CONSTRUCTION SITES OR PREVIOUS PERMITTING APPROVAL

Even if the originally planned project has not altered in design or function, the difficulty with lots that were already approved (even within more recent years) is the following:

- Conservation measures are provided by NHFG for each specific project and scope of the work that is proposed at the time. When time elapses or projects change, new reviews are required to align the appropriate conservation measures for the assessed impacts on species.

An example: A site once permitted to excavate gravel, then requested for development will have different impacts and associated conservation measures.

- If the property was abandoned, it is reasonable that natural systems and beings will reclaim once occupied areas in the absence of human presence. Therefore, it is possible that a threatened or endangered species may appear (whether it was previously present or not).

STREAMLINE PROCESS EXAMPLE: DoIT MENTIONED – CULVERT MAPPING DOT DID WITH DES

Streamlining processes for fixed entities, such as culverts, versus mobile species is much more easily managed. NHFG has conducted similar efforts with DOT to what you described in your email and is proposing to work with NHDES on developing an MOA that would outline roles, responsibilities, actions, etc.

Below is a bulleted summary of the review process work between NHFG-DOT:

1. During February 2022, NHFG and NHDOT entered into a MOA to acknowledge the unique nature of NH DOT projects (e.g., long linear projects that can take many years of planning and coordination). The MOA defined the agency review process for transportation projects including projects not subject to formal consultation with NHFG and procedures for projects requiring formal consultation with NHFG. The MOA is still active.
2. NHFG, DOT, and the Natural Heritage Bureau are in discussions regarding a new Data Sharing Agreement for DOT. Through the signed data sharing agreement, DOT would have access to certain

components of the rare species database for planning purposes and would coordinate with NHFG when their project overlaps a mapped protected wildlife occurrence. This is an alternative approach to the NHB DataCheck Tool. NHFG and DOT have recently met and discussed respective priorities for the Data Sharing Agreement. DOT has requested including more DOT activities in the data sharing agreement than has been included in previous agreements. NHFG has requested an updated process where adequate project descriptions are submitted to NHFG with a list of planned conservation measures from a menu approved by NHFG. Target for data release is end of January 2025.

3. For larger DOT projects that are not exempt from consultation and not included in the Data Sharing Agreement, DOT would submit projects to NHFG for review and consultation following procedures in MOA and NHFG FIS 1004 rules. NHFG and DOT have discussed development of a project submittal form that they would submit with project review requests to NHFG along with any conservation measures DOT is committing to which should facilitate those project reviews.