

Programmatic Endangered Species Act Consultations

Paul Wagner, Branch Manager, Biology

Mark Bakeman, Endangered Species Biologist

Washington State Department of Transportation

Roger Millar, Secretary



ESA is Complex in Washington State

Listed Species Regularly Encountered

| Plants | Terrestrial Mammals | Fish | Birds |
|--------|---------------------|------|-------|
| 9 | 6 | 24 | 6 |



Streaked horned lark (USFWS file photo)

| Amphibians | Invertebrates | Marine Mammals |
|------------|---------------|----------------|
| 1 | 1 | 2 |



Southern resident killer whale (NMFS file photo)

37 critical habitats

Two Federal Agencies Have ESA Jurisdiction

U.S. Fish and Wildlife Service
(terrestrial species and bull trout)



National Marine Fisheries Service
(NOAA Fisheries) anadromous fish
and marine mammals



WSDOT consults on at least 50+ projects per year. Federal action agencies are FHWA, the Corps, and US Forest Service



Early programmatic with USFWS: 1 east side, 1 west side. No formal coverage east side

New USFWS programmatic for west side;

Revised USFWS programmatic – statewide



Early informal programmatic with NMFS. Limited utility once many new critical habitats designated

New NMFS programmatic with formal coverage. No sunset date



Activities Covered by ESA Programmatic

- Heavy equipment operation
- Vegetation removal
- Bridge Construction, painting repair and demolition
- Cut and fill
- Piledriving
- Riprap placement
- Fish handling for exclusion
- Culvert cleaning, replacement
- Geotechnical sampling
- Pit & quarry Operations
- Blasting
- Slope stabilization
- Sign installation and repair
- Environmental Retrofit
- Fish Passage

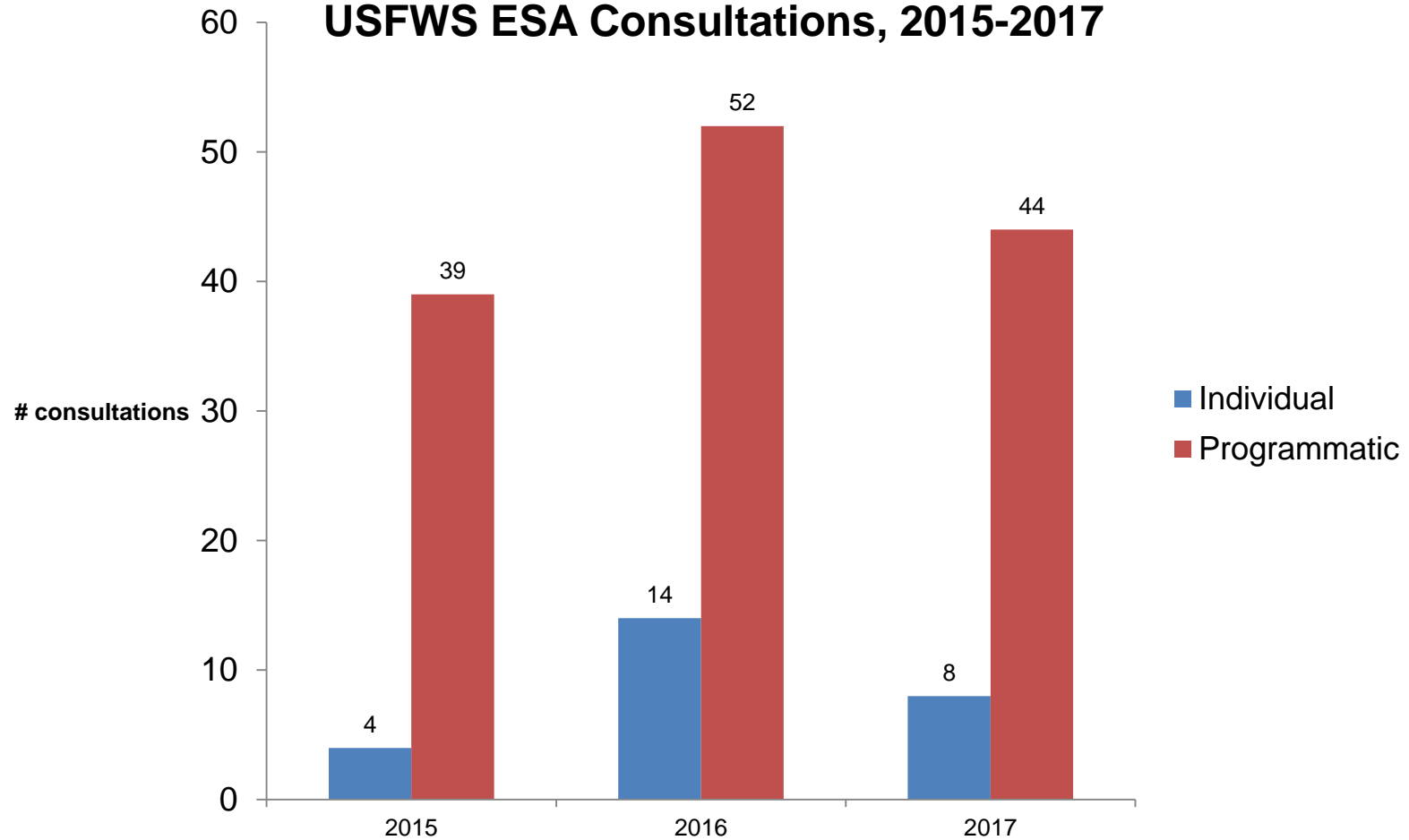
Comparing Individual and Programmatic Consultations

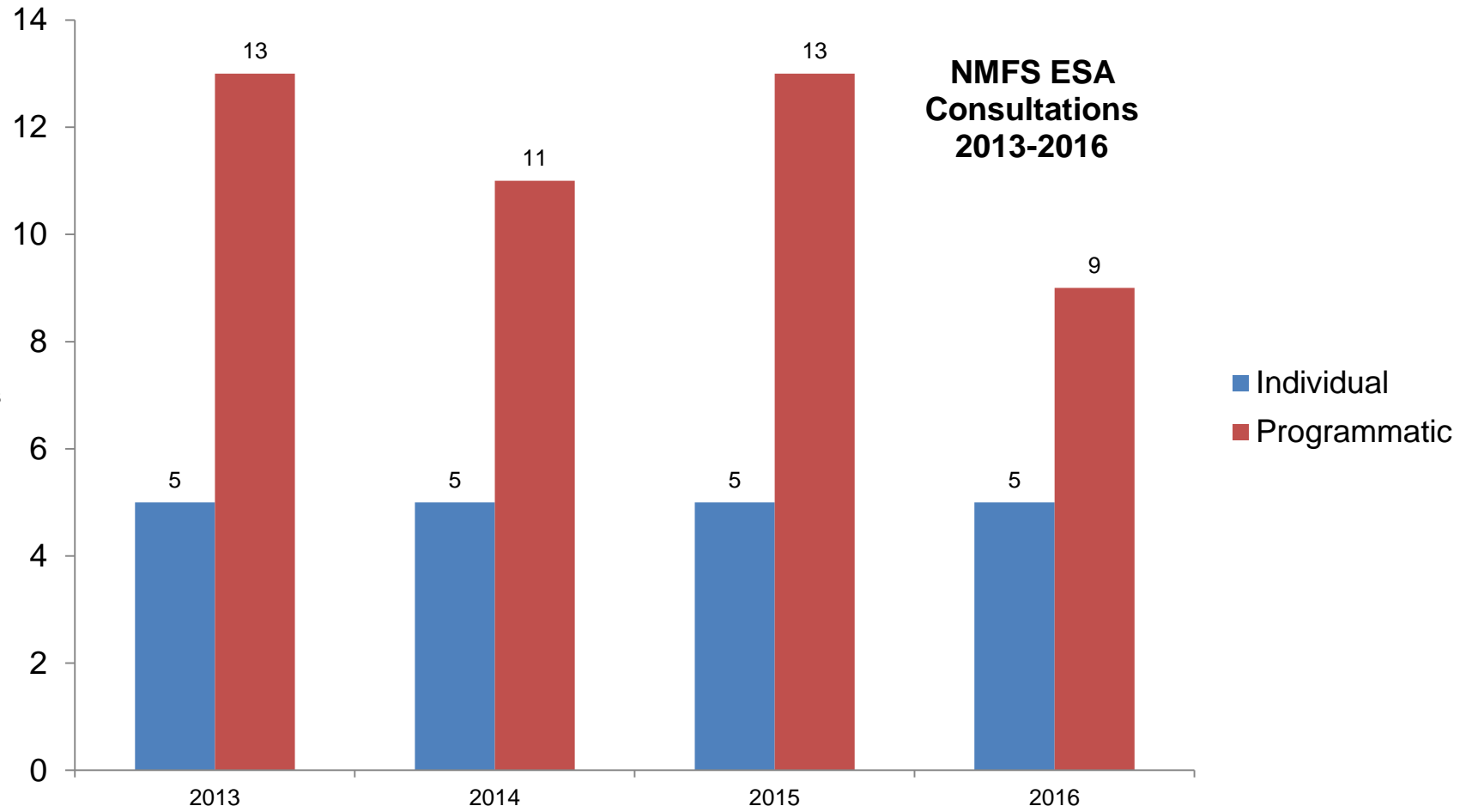
| individual | Programmatic |
|---|--|
| A project consultation with the Services must be completed beginning to end | The project consultations are complete. We just decide if projects are covered or not. |
| Writing a full BA takes approximately 40+ hours | Filling out a programmatic project notification form takes about ½ the time |
| More flexibility in allowed project conditions | Less flexibility in allowed |
| Can be written for any WSDOT project | Does not cover all projects: MegaProjects, Ferries, Rail, some other project types not covered |
| Informal projects are reviewed by the Services in about 51 days | Informal projects take 2-4 weeks for review |

| Individual | Programmatic |
|---|--|
| Formal consultation reviews take about 295 days | Formal projects take 2-4 weeks for review |
| Services produce a letter of concurrence for informal projects | Issues a consistency review |
| Services produce a biological opinion for formal projects (often includes “take”) | Issues a consistency review |
| Can be written by either WSDOT or Consulting biologist | Qualified WSDOT biologist only |



USFWS ESA Consultations, 2015-2017





Summary

- Programmatic are very useful, but take significant time to develop.
- WSDOT has been working with ESA programmatic for 2 decades.
- We currently use 1 programmatic for USFWS, 1 for NMFS
- One database is used to enter project information and submit a form
- A third programmatic is in development for our Ferries system

Questions?

