

ROAD COMMISSION FOR OAKLAND COUNTY

SPECIAL PROVISION
FOR
EASTERN MASSASSAUGA RATTLESNAKE

RCOC/DESIGN:CJ/JO

PAGE 1 OF 3

RCOC20SP107B
ORG:12-18-22

a. Description

Contractors are advised that the project area has a known population of the Eastern Massasauga Rattlesnake (EMR) or contains suitable habitat. This species is listed as federally threatened under the U. S. Endangered Species Act of 1973 (Act). Taking (killing, harming, or disturbing in any manner) of Eastern Massasauga Rattlesnake without a federal permit from the U.S. Fish and Wildlife Service is prohibited under federal law. The Act provides enforcement authority to the U.S. Fish and Wildlife Service and contains severe penalties for violations. The Contractor is liable to the Department for any penalties imposed for violations to the Act due to the Contractor's failure to comply with this special provision. Fines and penalties range up to \$50,000 and 1 year in prison. Violation of any requirement listed below can lead to an immediate work stoppage in Eastern Massasauga Rattlesnake habitat. FHWA is required under federal law to assure the Department is compliant with these provisions or risk losing federal funding for the project. This special provision addresses education, notification and intentional take requirements of the Contractor and their workers to protect the Eastern Massasauga Rattlesnake as required under the Act.

b. Materials

All work must be in accordance with the contract documents.

Use wildlife-friendly erosion control products that do not contain plastic mesh netting. Ensure that wildlife safe materials are used for all applicable project actions.

c. Construction

Adhere to the following requirements:

1. Contractor shall educate all contractor/subcontractor staff working onsite of EMR behavior, habitat use, protections, and conservation measures (if applicable) to be used for the project. All onsite staff is required to read the Fact Sheet attached to this Special Provision and watch MDNR's "60-Second Snakes: The Eastern Massasauga Rattlesnake" video (available at https://youtu.be/-PFnXe_e02w) prior to beginning onsite work activities.
2. Use wildlife-friendly erosion control products that do not contain plastic mesh netting. Ensure that wildlife safe materials are used for all applicable project actions.
3. Report any EMR observations during project implementation to the Engineer who will notify U.S. Fish and Wildlife Service's Shaughn Galloway within 24 hours at (517) 648-5634, or shaughn_galloway@fws.gov.
4. Ground-disturbing work should begin within the EMR active season (June 1– September 30) to avoid when snakes are likely to be hibernating.
5. Conduct vegetation clearing of the work area between October 31 - March 30 once the ground has frozen or daytime air temperature is $\leq 45^{\circ}\text{F}$ and install proposed exclusion fencing. Exclusion fencing shall be constructed at or beyond the proposed slope stake line or as directed by the Engineer. This is to prevent EMR from outside the work area from entering. When installing the exclusion fencing, avoid crayfish and small mammal burrows. This is to

avoid collapsing the burrows hibernating EMR are residing in. Prior to work commencing, walk through the work area to determine if EMR is present.

A. Vegetation should be cleared to the shortest extent possible, using hand tools when feasible.

6. Monitor all restoration plantings for proper establishment and implement supplemental plantings as necessary.

7. Do not use large equipment, perform earth-moving activities, water withdrawal and discharge for hydrostatic testing, or other activities that substantially affect the ground or water levels in potential EMR hibernacula areas located beyond the established construction limits during the inactive season (October 15-April 15). Do not disturb potential hibernation habitat (e.g. crayfish burrows, small mammal burrows) during the inactive season.

8. Minimize vehicle activity in known or presumed occupied EMR habitat to the extent possible.

A. Utilize silt fence as exclusionary fencing to prevent EMR from accessing the construction area.

B. If possible, exclusionary fence installation should be installed at least 24 hours before starting construction.

C. The fence should be installed as shown on the plans or as directed by the Engineer.

D. Prior to the installation of the exclusionary fencing, the area should be searched for EMR to ensure that individuals will not be trapped within the fence.

E. Install silt fence per standard detail with a 6" trench.

F. The work area (i.e interior of exclusionary fencing) should be cleared of EMR by the Contractor by a trained individual (someone who has received training in identification of EMR, its life history, and protection status or someone who has watched "60-Second Snakes: The Eastern Massasauga Rattlesnake" fulfils this requirement) to ensure no EMR are trapped in the work area prior to beginning construction activities.

G. The integrity of the exclusion fence must be ensured throughout the period of activity, and breaches of the barrier must be repaired promptly.

H. The exclusion fence shall be properly removed after completion of project activities.

d. Measurement and Payment.

All costs associated with complying with this special provision will not be paid for separately but will be considered to have been included with other items of work, except for those items listed below.

Cost for exclusion fencing shall be paid separately as part of **Erosion Control, Silt Fence, RCOC**. Exclusion fencing shall be installed between October 31 and March 30 as detailed.

Cost for cutting and clearing the area of vegetation between the existing roadway and the exclusion fencing shall be paid for as **Vegetation, Cut and Rem**.

Eastern Massasauga Rattlesnake (*Sistrurus catenatus*)

Protected as federally threatened



Photos courtesy of the Michigan Department of Natural Resources and Michigan State University

This species is suspected to occur at or near the work site. Please have staff read the following information.

What Does an Eastern Massasauga Rattlesnake Look Like?

The eastern massasauga rattlesnake is a thick-bodied and short venomous snake. Adults typically measure 18 to 30 inches long. This species is gray to grayish-brown with dark blotches bordered by white down the middle of its back. The head is thick and triangular and has an obvious neck. Like many venomous snakes, the massasauga has vertical slitted pupils like a cat and heat sensing pits below the eyes. A rattle is present on the tail that “buzzes” as a warning signal, although they may strike without rattling. This is the only rattlesnake in Michigan.

Where Does It Live?

These snakes prefer wet areas, such as marshes, wet prairies, wet woods, and along rivers and lakes. They also use adjacent upland during parts of the year, especially in the summer. They hibernate during the winter in crayfish burrows, under logs and tree roots, and in small mammal burrows.

What Should You Do If You See a Massasauga Rattlesnake?

Massasaugas are shy and try to avoid confrontation but that does not mean they won't bite to protect themselves. Never try to handle, chase, provoke, or threaten a snake. When in potential snake habitat, wear thick boots that cover your ankles, long pants, and do not reach into thickets or under logs. If you hear the buzzing of a rattle stay calm and back away from the sound slowly. The snake will leave if you give it space.

If an eastern massasauga rattlesnake is found at a Michigan Department of Transportation (MDOT) project, the construction engineer should be contacted immediately. The construction engineer should then contact the MDOT ecologist at 517-335-2633.

How is the Massasauga Protected Under the Law?

The eastern massasauga rattlesnake is protected under federal law by the Endangered Species Act. This status prohibits harming or harassing the species along with policies to protect the species habitat.

For More Information:

60-Second Snakes: The Eastern Massasauga Rattlesnake
www.youtube.com/watch?v=-PFnXe_e02w

Photos

http://animaldiversity.org/site/accounts/pictures/Sistrurus_catenatus.html

General Information

<http://mnfi.anr.msu.edu/emr>