



# Time of Year Restrictions and Other Guidance

Wildlife Information and Environmental Services

804-367-4335

August 19, 2020

This document provides general guidance for the protection of selected wildlife resources, focusing on times of year during which certain species may be most sensitive to human activities such as construction and land clearing. It does not constitute a list of best management practices to protect imperiled or sensitive wildlife species or their habitats; nor is adherence to these restrictions essential for every project. These recommendations, however, should be considered as guidance for project planning and scheduling of construction activities that may impact the identified wildlife species. Environmental documents and permit applications are reviewed individually, and modification or waiver of these time of year standards will be considered on a case-by-case basis.

Furthermore, any project with a federal nexus (e.g., the project entails any federal funding, permits, or federal agency action) must comport with consultation requirements pursuant to Section 7 of the Endangered Species Act. To ensure such compliance, the project applicant or proponent should access the USFWS Virginia Field Office Project Review (IPaC) website at:

<http://www.fws.gov/northeast/virginiafield/endangered/projectreviews.html>.

Designated Waters	TOYR (no instream work to occur)
<b>Wild Trout Streams and tributaries</b>	
Brook and Brown Trout waters	October 1 through March 31
Rainbow Trout waters	March 15 through May 15
<b>Stocked/Stockable Trout Streams and tributaries</b>	Typically no TOYR; contact Aquatic Regional Area Manager for guidance
<b>Anadromous Fish Use Areas and tributaries*</b>	February 15 through June 30 ( <i>see exceptions below</i> )
<i>Exceptions in James River*:</i>	
<ul style="list-style-type: none"> <li>Below Rt. 17 crossing</li> </ul>	No TOYR necessary unless project spans width of river, significantly impeding fish passage
<ul style="list-style-type: none"> <li>Bosher's Dam upstream, including Rivanna River and tribs</li> </ul>	March 15 through June 30
<i>Exception in Rappahannock River:</i>	
<ul style="list-style-type: none"> <li>Rappahannock River and tribs below Rt. 360 crossing</li> </ul>	February 15 through June 15
<i>Exception in York River:</i>	
<ul style="list-style-type: none"> <li>York River and tribs below Rt 33 crossing</li> </ul>	February 15 through June 15
<i>Exception in Elizabeth River:</i>	
<ul style="list-style-type: none"> <li>Elizabeth River and tribs</li> </ul>	No TOYR necessary unless project spans width of river, significantly impeding fish passage
<i>Exception in Nansemond River:</i>	
<ul style="list-style-type: none"> <li>Nansemond River and tribs</li> </ul>	February 15 through June 15
<b>Threatened and Endangered Species Waters and their tributaries</b>	TOYR dependent upon species known to inhabit the stream/river, see species information below
<i>* we understand that federal navigation channel dredging may require modification from the standard TOYR recommended for protection of anadromous fishes in the James River due to funding and project scheduling timeframes.</i>	
Fish	TOYR (no instream work to occur)
General Warm Water Species spawning	April 15 through July 15
General Cold Water Species spawning	March 1 through June 30
Landlocked white bass/striped bass/sunfish (Lake Anna, Dan River)	March 15 through June 30
Smith Mountain Lake Fish Assemblage	February 15 through June 15

Atlantic Sturgeon (FESE)	TOYR and/or other protective recommendations are applicable for work in the segments of designated Threatened and Endangered Species Waters (TE Waters) indicated below. However, in addition to these waters, Atlantic Sturgeon are known from tributaries to designated TE Waters, the Chesapeake Bay, Chesapeake Bay embayments, small tributaries to the Chesapeake Bay (including on the eastern Shore), and the Piankatank River. Impacts upon Atlantic sturgeon may be considered for projects impacting such waters, on a case-by-case basis.
<i>Spring spawning/migration</i>	March 15 through June 15
<ul style="list-style-type: none"> <li>James River from Wilcox Wharf downstream to the Rt. 17 crossing</li> </ul>	
<i>Fall spawning/migration</i>	August 1 through November 15
<ul style="list-style-type: none"> <li>James River from upper extent of designated water (Bosher's Dam) downstream to the Rt. 17 crossing</li> </ul>	
<ul style="list-style-type: none"> <li>Appomattox River from Lake Chesdin Dam downstream to confluence with James River</li> </ul>	
<ul style="list-style-type: none"> <li>Chickahominy River from Walker's Dam downstream to confluence with James River</li> </ul>	
<ul style="list-style-type: none"> <li>Pamunkey River from upper extent of designated water (Ashland Mill Dam) downstream to White House Landing/Pamunkey Indian Reservation</li> </ul>	
<ul style="list-style-type: none"> <li>Mattaponi River from upper extent of designated waters (Matta &amp; Po rivers at I95) downstream to King and Queen Courthouse Landing</li> </ul>	
<ul style="list-style-type: none"> <li>Rappahannock River from the fall line downstream to the Rt. 360 bridge</li> </ul>	
<i>Larval and Juvenile life stages</i>	Upon review by DWR biologist
<ul style="list-style-type: none"> <li>Within designated TE Waters year-round in shallow habitats, often near-shore</li> </ul>	
<i>Congregation areas</i>	Upon review by DWR biologist
<ul style="list-style-type: none"> <li>Rappahannock River from Rt 360 crossing downstream to Rt 3 bridge at White Stone</li> </ul>	
<ul style="list-style-type: none"> <li>James River from Hog Point (Hog Island WMA) downstream to the Rt 17 crossing</li> </ul>	
Blackbanded Sunfish (SE)	May 1 through June 30
Blackside Dace (FTST)	April 1 through July 31; not in Clinch Drainage (introduced)
Bridle Shiner (Tier Ia)	May 15 through July 31
Candy Darter (FECC)	March 15 through June 30
Carolina Darter (ST)	March 15 through June 30
Clinch Dace (Tier Ia)	April 1 through July 31
Duskytail Darter (FESE)	April 1 through July 15
Golden Darter (ST)	May 1 through August 31
Greenfin Darter (ST)	May 1 through June 30
Orangefin Madtom (ST)	March 15 through May 31; not in James drainage (introduced)
Roanoke Bass (Tier Ia)	March 15 through July 15
Roanoke Hogsucker (Tier IVc)	March 15 through July 15
Roanoke Logperch (FESE)	March 15 through June 30
Roughead Shiner (Tier Ib)	March 15 through June 30
Sharphead Darter (SE)	June 15 through August 31
Sickle Darter (ST)	March 15 through July 31
Slender Chub (FTST)	April 1 through May 31

Spotfin Chub (FTST)	May 1 through August 31
Steelcolor Shiner (ST)	May 1 through August 31
Tennessee Dace (SE)	April 1 through July 31
Variagate Darter (SE)	March 15 through July 31
Western Sand Darter (ST)	April 1 through June 30
Whitemouth Shiner (ST)	March 15 through June 30
Yellowfin Madtom (FTST)	April 1 through August 31
<b>Crayfish</b>	<b>TOYR (no instream work to occur)</b>
Big Sandy Crayfish (FTST)	July 1 through October 31 (females brooding young)
<b>Freshwater Mollusks</b>	<b>TOYR (no instream work to occur)</b>
Long-term brooders (see list at end of document)	April 15 through June 15 (glochidia release); and August 15 through September 30 (spawning)
Short-term brooders (see list at end of document)	May 15 through July 31
<i>Exceptions:</i>	
• Dwarf Wedgemussel (FESE)	March 15 through May 31; and August 15 through October 15
• Purple Bean (FESE)	February 15 through June 15; and August 15 through September 30
• Spiny Riversnail (ST)	April 1 through June 15
• Spider Elimia (SE)	April 1 through June 15
<b>Birds</b>	<b>TOYR (certain activities not to occur)</b>
Bachman's Sparrow (ST)	April 1 through August 15
Bald Eagle nest sites	December 15 through July 15
Bald Eagle concentration areas and roost sites (BECAR)	<u>Summer</u> : May 15 through August 31; <u>Winter</u> : December 15 through March 15
Bewick's Wren (SE)	April 1 through June 30
Black Skimmer (Tier IIa)	April 1 through August 31; TOYR ends when last brood fledges as determined during most recent monitoring activity
Black Rail (SE)	April 1 through August 31
Common Tern (Tier IIa)	April 1 through August 31; TOYR ends when last brood fledges through determined during most recent monitoring activity
Henslow's Sparrow (ST)	April 1 through August 31
Least Tern ( Tier IIIa)	April 1 through August 31; TOYR ends when last brood fledges as determined during most recent monitoring activity
Loggerhead Shrike(ST)	April 1 through July 31
Peregrine Falcon (ST)	February 15 through July 15 for activities w/in 600 ft of nest/box
Piping Plover (FTST)	March 15 through August 31; TOYR ends when last brood fledges as determined during most recent monitoring activity
Wilson's Plover (SE)	March 15 through August 31; TOYR ends when last brood fledges as determined during most recent monitoring activity
General beach- nesting birds	March 15 through August 31; TOYR ends when last brood fledges as determined during most recent monitoring activity
General migratory and resident songbirds	March 15 through August 15
<b>Colonial Waterbird Colonies</b>	<b>TOYR (certain activities not to occur)</b>
Great Egret, Green Heron (Tier IVb), Yellow-Crowned Night Heron, etc	April 1 through August 15 for activities w/in 0.25 mile of rookery (site with more than one nesting pair); maintain undisturbed naturally vegetated buffer of at least 500 ft around rookery.
Great Blue Heron	February 15 through July 31 for activities w/in 0.25 mile of rookery or high intensity activity w/in 0.5 mile of rookery; maintain undisturbed naturally vegetated buffer of at least 500 ft around rookery.

Mammals	TOYR (certain activities not to occur)
<p><b>Bat data layers:</b> Unless otherwise indicated, all hibernacula locations are randomly offset, and then circumscribed by 2 buffers; a 0.5 mile radius buffer (small), and a 5.5 mile radius buffer (large). These two buffers were developed to assist in compliance with established bat protection measures. Other species records including summer roosts, maternity colonies, bachelor colonies, and physical or acoustic captures are not offset, but may be circumscribed by buffers to facilitate state or federal guidelines during project reviews.</p> <p><b>Note:</b> Not all known hibernacula are currently depicted in VAFWIS, but will be available in the updated VAFWIS, due sometime in 2020/2021. Known hibernacula for Northern Long-Eared Bats, Little Brown Bats, and Tri-Colored Bats currently are depicted, via the species-specific online applications discussed below.</p>	
<p>General Bat Protections</p>	<p>When a listed bat is documented by SppObs, not associated with a hibernacula, maternity roost or bachelor colony, the following should be considered applicable:</p> <ul style="list-style-type: none"> <li>a) If the project proponent does not perform a survey to determine the location of any roost sites: We recommend a TOYR from April 1 through October 31 for tree removal/timbering activities within suitable habitat;</li> <li>b) If the project proponent performs a survey and a roost site is documented within areas proposed for timbering: We recommend a TOYR from June 1 through July 31* for tree removal/timbering within 150 ft of a documented maternity roost site. *If the species present is Indiana Bat, coordination with USFWS is necessary to ensure protection; adherence to this TOYR alone is not sufficient;</li> <li>c) If the project proponent performs a survey and no roost sites are identified within areas proposed for timbering: No TOYR necessary</li> <li>d) NO tree removal/timbering at any time of year within 0.25 mile of documented hibernacula as per VAFWIS or the two bat hibernacula and roost applications.</li> <li>e) NO disturbance of hibernating bats and/or physical modification of the hibernaculum entrance.</li> </ul> <p><b>Applications:</b>  <u><a href="http://www.DWR.virginia.gov/wildlife/bats/little-brown-bat-tri-colored-bat-winter-habitat-roosts-application/">Little Brown and Tri-colored Bats</a></u>  <u><a href="http://www.DWR.virginia.gov/wildlife/bats/little-brown-bat-tri-colored-bat-winter-habitat-roosts-application/">http://www.DWR.virginia.gov/wildlife/bats/little-brown-bat-tri-colored-bat-winter-habitat-roosts-application/</a></u>  <u><a href="https://www.DWR.virginia.gov/wildlife/bats/norther-long-eared-bat-application/">Northern Long-eared Bat</a></u>  <u><a href="https://www.DWR.virginia.gov/wildlife/bats/norther-long-eared-bat-application/">https://www.DWR.virginia.gov/wildlife/bats/norther-long-eared-bat-application/</a></u></p>
<p>Gray Bat (FESE)</p>	<p>April 1 through October 31 for any activity that may disturb roosting bats located on or within 100 feet of suitable bridges and culverts located in the Tennessee drainage. Coordinate with DWR and USFWS for any activities located within the regulatory buffer placed around known hibernacula. Coordinate with the USFWS for all projects that may affect Gray Bats.</p>
<p>Indiana Bat (FESE)</p>	<p>April 15 through September 15 for projects including tree removal/timbering that are located outside of the small buffer around the hibernaculum but within the larger buffer; April 1 through November 1 for projects located within the small hibernaculum buffer. Coordinate with the USFWS for all projects that may affect Indiana Bats.</p>

<p>Little Brown Bat (SE) and/or Tri-Colored Bat (SE)</p> <p><i>Hibernaculum records are offset and circumscribed as described above. In addition, the online application depicts a 150-foot-radius circle around documented roost trees (there are no known roosts as of this date).</i></p>	<p>1) Regarding removal (exclusion) of individual animals from human habited structures to reduce human health risk: Provided the “Required Conservation Measures” described in 4VAC15-20 are implemented, we do not anticipate take of this species, and any incidental take is not prohibited. We refer interested parties to the Department’s <a href="#">“Best management practices for conservation of little brown bats and tri-colored bats”</a> for additional guidance.</p> <p>2) Regarding tree removal, prescribed fire, or other land management actions proposed to enhance public safety or to reduce risk of property damage: Provided the “Required Conservation Measures” described in 4VAC15-20 are implemented, we do not anticipate take of this species, and any incidental take is not prohibited. We refer interested parties to the Department’s <a href="#">“Best management practices for conservation of little brown bats and tri-colored bats”</a> for additional guidance.</p> <p>3) Regarding any other tree removal or harvest, prescribed fire, or other land management actions: If the activity would occur within 0.25 miles of a “major” hibernaculum (i.e., a hibernaculum documented to support at least 50 individual little brown bats and/or Tri-Colored bats in any year since December 31, 1994) or within 150 feet of a known roost tree, the applicant should refer to the Department’s <a href="#">“Best management practices for conservation of little brown bats and tri-colored bats”</a> for additional guidance regarding development of a Conservation Plan for these species, if authorization of incidental take is desired. Lacking such plan approval by the Department, the applicant may proceed with the proposed activities at their own discretion, but is not provided any authorization of purposeful or incidental take of these species.</p> <p>To initiate review of such a project, and consultation with DWR regarding development of a project-specific Conservation Plan, the project proponent should access the Department’s online application for these species at: <a href="http://www.DWR.virginia.gov/wildlife/bats/little-brown-bat-tri-colored-bat-winte-habitat-roosts-application/">http://www.DWR.virginia.gov/wildlife/bats/little-brown-bat-tri-colored-bat-winte-habitat-roosts-application/</a> to determine whether the project footprint intersects with the application-specific buffers. If the 0.5 mile radius inner buffer and the project footprint overlap, the project proponent should contact Mr. Rick Reynolds at <a href="mailto:Rick.Reynolds@DWR.virginia.gov">Rick.Reynolds@DWR.virginia.gov</a>, or at 540-248-9360, for further guidance.</p>
<p>Rafinesque’s Eastern Big-Eared Bat (SE)</p>	<p>Perform habitat assessment if the site: (1) is forested and proposed for timbering and/or tree removal; and/or (2) includes abandoned structures (e.g., barns, houses), bridges, and/or culverts which are proposed for impacts that could adversely impact the species. DWR recommendations will be based on results of the habitat suitability assessment and anticipated project impacts.</p>

Northern Long-Eared Bat (FTST)  <i>Hibernaculum records are offset and circumscribed as described above. In addition, the NLEB application documents a 150-foot through radius circle around documented maternity roost trees.</i>	June 1 through July 31 for projects including tree removal/timbering within 150 feet of a documented maternity roost; NO tree removal/timbering within 0.25 miles of a documented hibernaculum. NO disturbance of hibernating bats and/or physical modification of the hibernaculum entrance. Access a key (guide) to the USFWS Final 4(d) Rule at the following links: Non-federal project 4(d) Rule Key: <a href="https://www.fws.gov/Midwest/endangered/mammals/nleb/KeyFinal4dNLEB.html">https://www.fws.gov/Midwest/endangered/mammals/nleb/KeyFinal4dNLEB.html</a> ; Federal project 4(d) Rule Key: <a href="https://www.fws.gov/midwest/endangered/mammals/nleb/KeyFinal4dNLEBFedProjects.html">https://www.fws.gov/midwest/endangered/mammals/nleb/KeyFinal4dNLEBFedProjects.html</a>
Virginia Big-Eared Bats (FTST)	April 1 – October 31 for tree removal/timbering. Coordinate with DWR and USFWS for any activities located within the regulatory buffer placed around known hibernacula.
<b>Amphibians</b>	<b>Protective Recommendations</b>
Mabee's Salamander (ST)	Avoid impacts upon suitable/occupied habitat. To preserve a natural breeding pond and adjacent upland habitat used by this species, we recommend preservation of a 900-foot-wide naturally forested buffer around the breeding pond: to protect more opportunistic or temporary breeding sites, or where such a wide buffer is infeasible, the buffer width/location may be modified upon review and approval by DWR.
Eastern Tiger Salamander (SE)	Avoid impacts upon suitable/occupied habitat. To preserve a natural breeding pond and adjacent upland habitat used by this species, we recommend preservation of a 900-foot-wide naturally forested buffer around the breeding pond: to protect more opportunistic or temporary breeding sites, or where such a wide buffer is infeasible, the buffer width/location may be modified upon review and approval by DWR.
Barking Treefrog (ST)	Avoid impacts upon suitable/occupied habitat. To preserve a natural breeding pond and adjacent upland habitat used by this species, we recommend preservation of a 900-foot-wide naturally forested buffer around the breeding pond: to protect more opportunistic or temporary breeding sites, or where such a wide buffer is infeasible, the buffer width/location may be modified upon review and approval by DWR.
<b>Reptiles</b>	<b>TOYR (certain activities may not occur)</b>
Bog Turtle (FESE)	Avoid impacts upon suitable or occupied habitat. If impacts are unavoidable, consult with DWR.
Wood Turtle (ST)	<u>For instream work</u> : October 1 through March 31; <u>For work within 900 ft of stream</u> : April 1 through September 30. Maintain undisturbed naturally vegetated buffer of at least 300 feet (preferably larger) on stream.
sea turtles (federal and state-listed)	<u>For activities on beaches</u> : May 1 through November 15. Nest searches are conducted from May 1 through August 31. TOYR ends when last nest hatches as determined during most recent monitoring activity. <u>For dredging</u> : April 1 through November 30 for hydraulic hopper dredging in the Bay, ocean and major tributaries. Efforts to waive the TOYR must be coordinated through NOAA Fisheries Service.
<i>Note: Since federal listing of Atlantic sturgeon (co-occur with sea turtles in many places), all hydraulic hopper dredging activities in the Chesapeake Bay, Atlantic Ocean, and major tributaries, regardless of time of year must be coordinated with NOAA Fisheries Service.</i>	

### Additional Information

Freshwater Mollusks: long-term brooders TOYR: April 15 through June 15 (glochidia release); and August 15 through September 30 (spawning)	Freshwater Mollusks: short-term brooders TOYR: May 15 through July 31
Birdwing Pearlymussel (FESE)	Appalachian Monkeyface (FESE)
Black Sandshell (ST)	Atlantic Pigtoe (FPST)
Brook Floater (SE)	Cracking Pearlymussel (FESE)
Cumberland Bean (FESE)	Cumberland Monkeyface (FESE)
Cumberlandian Combshell (FESE)	Finethroughrayed Pigtoe (FESE)
Dromedary Pearlymussel (FESE)	James Spiny mussel (FESE)
Elktoe (Tier IIc)	Pistolgrip (ST)
Fluted Kidneyshell (FESE)	Pyramid Pigtoe (SE)
Fragile Papershell (ST)	Rough Pigtoe (FESE)
Green Floater (ST)	Rough Rabbitsfoot (FESE)
Green Blossom (FESE)	Sheepnose Mussel (FESE)
Littlewing Pearlymussel (FESE)	Shiny Pigtoe (FESE)
Oyster Mussel (FESE)	Slabside Pearlymussel (FESE)
Pink Mucket (FESE)	Tennessee Clubshell (Tier IIa)
Purple Lilliput (SE)	Yellow Lance (FT)
Rayed Bean (FESE)	
Slippershell Mussel (SE)	
Snuffbox (FESE)	
Spectaclecase (FESE)	
Tan Riffleshell (FESE)	
Tennessee Heelsplitter (SE)	
Yellow Lampmussel (Tier IIa)	
Status Definitions	
FE = federally endangered	SE = state endangered
FT = federally threatened	ST = state threatened
Tier/Rank = Virginia Wildlife Action Plan Species of Greatest Conservation Need; see <a href="http://www.bewildvirginia.org">www.bewildvirginia.org</a>	

Avian Species Nesting Dates (for informational purposes only)	
Raptors (including hawks, owls, falcons)	January 1 through May 31
Woodpeckers	April 1 through July 31
Resident passerines and non-passerines	March 1 through July 31
Migrant passerines and non-passerines	May 1 through July 31
American goldfinch	July 15 through September 15
Examples: <i>resident passerines and non-passerines</i> - Mourning Dove, Carolina Chickadee, White-breasted Nuthatch, Carolina Wren, American Robin, Northern Mockingbird, Common Grackle, Northern Cardinal, Song Sparrow	
Examples: <i>migrant passerines and non-passerines</i> - cuckoos, nightjars, swifts, hummingbirds, swallow, warblers, vireos, tanagers	

Additional resources available through the Environmental Services page on DWR's website at:  
<https://dwr.virginia.gov/environmental-programs/environmental-services-section/>