

VDGIF Time of Year Restrictions (TOYR) Table

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>.

Fish	TOYR (no instream work to occur)
brown and brook trout waters	01 October – 31 March
rainbow trout waters	15 March – 15 May
general warmwater species spawning	15 April – 15 July
general coldwater species spawning	1 March – 30 June
Anadromous Fish Waters and tributaries – see exceptions below	15 February – 30 June
James River and tributaries:	
▪ Below Rt. 17 bridge	No TOYR unless project spans width of River to an extent that it significantly impedes passage
▪ Jamestown Island (Gray’s Creek) - Rt. 17 bridge.	15 February - 15 June
▪ Jamestown Island - Boshers Dam*	15 February – 30 June
▪ Above Boshers (including	15 March – 30 June

Rivanna River)	
Rappahannock River and tributaries (below Rt. 360)	15 February – 15 June
York River and tributaries (below Rt. 33)	15 February – 15 June
Elizabeth River	No TOYR unless project spans width of River to an extent that it significantly impedes passage
Nansemond River	15 February – 15 June
<i>* we understand that federal navigation channel dredging may require some leniency from the standard TOYR recommended for protection of anadromous fishes in the James River due to funding and project scheduling timeframes</i>	
landlocked white bass, striped bass, sunfish (incl. on Lake Anna)	15 March – 30 June
general fish - Smith Mountain Lake	15 February - 15 June
Roanoke logperch	15 March – 30 June
orangeфин madtom	15 March – 31 May (in native range – not in James River drainage, where it is introduced)
whitemouth shiner	15 March – 30 June
yellowfin madtom	01 April – 31 Aug
Carolina darter	15 March – 30 June
Tennessee dace	01 April – 31 July
spotfin chub	01 May – 31 Aug
blackside dace	01 April – 01 August
Clinch dace	01 April – 31 July
blackbanded sunfish	01 May – 30 June
variegate darter	15 March – 31 July
duskytail darter	01 April – 15 July
sickle darter (previously longhead darter)	15 March – 31 July
greenfin darter	01 May – 01 July
Roanoke bass	15 March – 15 July
Roanoke hogsucker	15 March – 15 July
bridle shiner	15 May – 31 July
roughhead shiner	15 March - 30 June
golden darter	01 May - 31 August
riverweed darter	15 April – 31 May
speckled killifish	01 June - 15 July
sharphead darter	15 June - 31 August
Bluestone sculpin	01 Jan – 31 May
Atlantic sturgeon	Recommend coordination with NOAA Fisheries for any instream

	construction located within channel habitat of designated Threatened and Endangered Species Water. This is not to include projects with minimal impacts along the water's edge such as small shoreline stabilization projects, pier repairs, etc
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Crayfish:	TOYR (no instream work to occur)
Big Sandy crayfish	1 July – 31 October

Freshwater mollusks*	TOYR (no instream work to occur)
Long-term brooders - general	15 April – 15 June (release of glochidia); 15 August – 30 September (spawning)
Short-term brooders - general	15 May – 31 July
dwarf wedgemussel	15 March - 31 May; 15 August – 15 Oct.
purple bean	15 Feb. - 15 June; 15 August - 30 September
spiny riversnail	1 April – 15 June
spider elimia	1 April - 15 June

Birds	TOYR (certain activities may not occur)
bald eagle nest sites	15 December – 15 July
bald eagle, concentration area and roost sites	Summer: 15 May – 31 August; Winter: 15 December – 15 March
black skimmer	01 April – 31 August
common tern	01 April – 31 August
great blue heron	15 Feb – 31 July for activities within 0.25 mile of rookery or within 0.5 mile of rookery if project involves high density activity; maintain undisturbed naturally vegetated buffer of at least 500 ft around rookery
great egret	01 April – 15 August for activities within 0.25 mile of rookery
green heron	01 April – 15 August for activities within 0.25 mile of rookery
least tern	01 April – 31 August
peregrine falcon	15 February – 15 July for activities within 600 feet of nest.
piping plover	15 Mar – 31 August; TOYR ends when last brood fledges as determined during most recent monitoring activity.
Wilson's plover	01 April – 31 August; TOYR ends when last brood fledges as determined during most recent monitoring activity.
other beach nesting birds	01 April – 31 August; TOYR ends when last brood fledges as determined during most recent monitoring activity.
yellow-crowned night heron	01 April – 15 August for activities within 0.25 mile of rookery
loggerhead shrike	01 April – 31 July
Bewick's wren	01 April – 30 June

Bachman’s sparrow	01 April – 15 August
Henslow’s sparrow	01 April – 31 August
black rail	01 April – 31 August
general migratory and resident songbirds	15 March – 15 August

Mammals	TOYR (certain activities may not occur)
<p>Bats: Project proponents should consult with VDGIF and USFWS as appropriate depending on the federal or state legal status of the species, the nature of the proposed activities, and applicability of formal or informal consultation/conference protocols regarding particular species (e.g., northern long-eared bat, Indiana bat), project categories (e.g., wind energy facilities), or agencies (e.g., Federal Highway Administration, Federal Railroad Administration, U.S. Army Environmental Command, U.S. Department of Agriculture – Forest Service). Such protocols aside, VDGIF’s general guidance regarding TOYRs and conditions applicable to projects potentially impacting Threatened or Endangered bats are as follows.</p> <p>Unless otherwise indicated, all hibernacula locations are randomly offset, and then circumscribed by a 0.5-mile-radius inner circle, and by a 5.5-mile-radius outer buffer. 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>Note: Not all known hibernacula are currently depicted in VaFWIS. Only 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>	
gray bat	The standard VDGIF TOYR is from 01 April – 31 October for activities on or within 100 feet of bridges and culverts crossing or adjacent to the Powell and Clinch rivers and tributaries. For all projects that may affect gray bats, the project proponent should contact the USFWS Virginia Field Office.
Indiana bat	The standard TOYRs are 01 June – 31 July for the “pup season,” 15 April – 15 September outside of the 5.5-mile-radius buffer for hibernacula, and 01 April – 15 November within a hibernaculum buffer. Because the applicable TOYRs and conservation recommendations vary greatly depending on the activities, project size, habitat suitability, proximity to known bat occurrences, and involvement of any federal permits, funding, or actions comprising a federal “nexus,” VDGIF recommends consultation with the USFWS Virginia Field Office for all projects that may affect Indiana bats.
little brown bat and/or tri-colored bat Hibernaculum records are offset and circumscribed as	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 “Best management practices for conservation

<p>described above. In addition, the MYLU/PESU application documents a 150-foot-radius circle around documented roost trees (but; there are no known roosts as of this date).</p>	<p>of little brown bats and tri-colored bats” 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 “Best management practices for conservation of little brown bats and tri-colored bats” 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 (e.g., 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 “Best management practices for conservation of little brown bats and tri-colored bats” 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 DGIF regarding development of a project-specific Conservation Plan, the project proponent should access the Department’s online application for these species at: http://www.dgif.virginia.gov/wildlife/bats/little-brown-bat-tri-colored-bat-winter-habitat-roosts-application/ 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 rick.reynolds@dgif.virginia.gov, or at 540-248-9360, for further guidance.</p>
<p>Rafinesque’s eastern big-eared bat</p>	<p>Perform a 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. Our conservation recommendations will be based on results of the habitat suitability assessment and anticipated project impacts.</p>
<p>northern long-eared bat Hibernaculum records are offset and</p>	<p>We recommend compliance with the U.S. Fish and Wildlife Service ESA 4(d) rule for this species. VDGIF’s standard recommendations therefore, are to prohibit tree removal within 150 feet of a documented maternity roost from 1 June through 31 July, and to</p>

<p>circumscribed as described above. In addition, the NLEB application documents a 150-foot-radius circle around documented maternity roost trees.</p>	<p>prohibit tree removal within 0.25 miles of a documented hibernaculum. Waiver or release from these standards may only be achieved through consultation with the USFWS and/or securing of an Incidental Take Permit from USFWS. Because the USFWS may consider other activities (e.g., blasting or drilling) within the vicinity of a hibernaculum as potentially constituting take of northern long-eared bats, we recommend that the project proponent contact the USFWS Virginia Field Office to consult regarding any project whose footprint intersects with the 5.5-mile radius buffer around a hibernaculum (http://www.dgif.virginia.gov/wildlife/bats/northern-long-eared-bat-application/). Furthermore, any project with a federal nexus (e.g., the project entails any federal funding, permits, or federal agency action) must comport with additional 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.</p>
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Amphibians	Protective Recommendations
Mabee’s salamander	Maintain undisturbed naturally vegetated buffer of at least 300 meters on pond. No impacts upon pond without incurring impacts upon salamander.
eastern tiger salamander	Maintain undisturbed naturally vegetated buffer of at least 300 meters on pond. No impacts upon pond without incurring impacts upon salamander.

Reptiles	TOYR (certain activities may not occur)
wood turtle	For instream work: 01 October – 31 March; For work within 900 feet of stream (zone of concern): 01 April – 30 September. Maintain undisturbed naturally vegetated buffer of at least 300 feet (preferably larger) on stream.
sea turtles (beach activities)	Nest searches are conducted from 1 May – 31 August. TOYR ends when last nest hatches as determined during most recent monitoring activity. If nest searches are not conducted, no work on beaches (or affecting beaches) from 1 May – 15 November.
sea turtles (dredging activities)	01 April – 30 November for hydraulic hopper dredging in the Bay, ocean and major tributaries. Efforts to waive the TOYR must be coordinated through NMFS.

Nesting Dates (non-listed birds):

Raptors (including hawks, owls, falcons): 01 Jan – 31 May
Woodpeckers: 01 April – 31 July
Resident passerines and non-passerines**: 01 Mar – 31 July
Migrant passerines and non-passerines***: 01 May – 31 July
American goldfinch: 15 July – 15 September

****Resident passerines and non-passerines** – examples: mourning dove, Carolina chickadee, white-breasted nuthatch, Carolina wren, American robin, northern mockingbird, common grackle, northern cardinal, song sparrow, etc.

*****Migrant passerines and non-passerines – examples:** cuckoos, nightjars, swifts, hummingbirds, swallow, warblers, vireos, tanagers, etc.

***Freshwater mollusks:**

Long-term brooders:

birdwing pearlymussel
black sandshell
brook floater
Cumberland bean
cumberlandian combshell
dromedary pearlymussel
elktoe
Fanshell
fluted kidneyshell
fragile papershell
green floater
green-blossom
little-wing pearlymussel
oyster mussel
pink mucket
purple lilliput
rayed bean
slippershell mussel
snuffbox
spectaclecase
tan riffleshell
Tennessee heelsplitter
yellow lampmussel

Short-term brooders:

Appalachian monkeyface
Atlantic pigtoe
cracking pearlymussel
Cumberland monkeyface
fine-rayed pigtoe
James spinymussel
pistolgrip
pyramid pigtoe
rough pigtoe
rough rabbitsfoot
sheepnose
shiny pigtoe
slabside pearlymussel
Tennessee clubshell
yellow lance