

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife

625 Broadway, 5th Floor, Albany, NY 12233-4750

P: (518) 402-8924 | F: (518) 402-8925

www.dec.ny.gov

New York State Guidance on Northern Long-eared Bats and Forest Management 05/03/23

Background

On April 1, 2023 the status of the Northern long-eared bat (NLEB, *Myotis septentrionalis*) was officially changed from threatened to endangered by the United States Fish and Wildlife Service (FWS). The FWS has put out [interim guidance effective through March 31, 2024](#) to help conserve NLEB when planning and conducting sustainable forestry management actions. This guidance for forest management is based on the FWS's interim guidance and New York State Department of Environmental Conservation (DEC) implementation of the State Endangered Species Law.

Regional Approach

Both DEC and FWS recognize that sustainable forestry results in healthy forests that are essential for the long-term conservation of NLEB and other bat species. Sustainable forestry in this context is forest management conducted under a long-term plan designed to maintain or improve the health of the forest stand. White-nose syndrome (WNS) continues to be the threat primarily responsible for the NLEB population decline, with habitat rarely being the limiting factor. This is true throughout most of New York State, **with the exception of the Long Island Region (Nassau and Suffolk counties)**, where habitat is a limiting factor and NLEB are known to occur throughout most forested areas.

The Long Island region is treated separately by FWS and will also be evaluated differently by DEC due to its importance as the largest known remaining summer concentration of the species in New York. However, the basic principle that sustainable forestry is compatible with long-term persistence of NLEB applies to this region as well. There is not Long Island-specific guidance available currently, but DEC and FWS are working towards developing it.

Interim Guidance

Regardless of management approach, under the interim guidance, forestry projects need to directly address NLEB concerns only if they occur within areas of known NLEB use. For DEC review, the area of concern is within 5 miles of a hibernacula or 1.5 miles of a known roost. This is consistent with the standard used by DEC for all projects since the species was listed as threatened in 2015.

These areas are identified in the DEC's screening tools ([EAF mapper](#) or [Environmental Resource Mapper](#)). If you have a forestry project that does not occur within one of these areas (e.g. you do not get a "hit" for NLEB), there are no additional steps for you to consider. This is true for all types of projects that modify forested habitat, whether

sustainable forestry-oriented or otherwise. However, please note that if your project is converting forest habitat for an alternative land use, the guidance below does not apply.

For sustainable forestry projects within 5 miles of a hibernacula and/or 1.5 miles of a known roost, the following is a summary of the **recommendations** for forest management based on DEC and FWS interim guidance:

- No tree cutting in the vicinity of roosts or hibernacula from April 1 – October 31
- No tree cutting within 0.25 miles of hibernacula at any time.
- Forest management projects should retain as many snags (i.e., standing dead trees) as possible and minimize removal of potential roost trees (live trees greater than 3" DBH with visible cavities).

In addition, the following are additional Best Management Practices recommendations that are not required, but are likely to be incorporated into future FWS guidance within areas known to be occupied by NLEB:

- Avoid isolating forest stands by leaving forested corridors connect them to other forest habitat
- Avoid/minimize clear cuts larger than 5 acres in size
- Within forest stands, avoid the construction of new roads or the widening of existing roads

If you can comply with the recommendations above, FWS and DEC would conclude that a take would not occur and the project would not require any endangered species permits.

For tree cutting to occur during the active season, the following are required to comply with the FWS interim guidance and avoid permits:

- No tree cutting occurs within 150 feet of known roost trees
- No tree cutting occurs within 0.25 miles of a known hibernacula
- Leave snag and cavity trees uncut unless their removal is necessary for protection of human life and property. Snag and cavity trees are defined under [DEC Program Policy ONR-DLF-2 Retention on State Forests](#).
- If any bats are observed flying from a tree, or on a tree that has been cut, tree management activities in the area should be suspended and DEC Wildlife staff notified as soon as possible. A permit may be required to continue work, or you may have to wait until November 1 to resume activities.

If all of the above are incorporated into the project, forest management may proceed during the active season without a likely take of NLEB and without a permit from either DEC or FWS.

If you cannot abide by this guidance, other options are as follows:

- Site specific surveys may potentially demonstrate probable absence, but the FWS' [new survey protocol](#) must be followed.
- Reach out directly to the appropriate FWS field office ([Long Island Field Office](#) for Nassau and Suffolk counties, [New York Field Office](#) – rest of the state) for additional conservation actions that may render take unlikely
- Pursue permits to authorize take. The DEC permit requires mitigation that provides a [Net Conservation Benefit](#). The FWS permit requires development of a [Habitat Conservation Plan](#). Contact the agencies to discuss if this option works for you.

Additional Guidance for Projects with Federal Nexus

Projects that do not have funding from a federal source, are not being done in cooperation with a federal agency, do not require a federal permit, and do not occur on federal property are required to follow only the above interim guidance. If there is a federal nexus (i.e., one of the federal triggers listed above is involved), then consultation between the FWS and the agency providing the funding/permit/assistance may have to occur before the project can move forward. It is important to note that in defining its regulatory area of concern, FWS uses the same definition of areas of concern as DEC – forested habitat within 5 miles of known hibernacula and 1.5 miles of a known roost. However, FWS also includes areas within 3 miles of acoustic detections of the species. Therefore, projects with a federal nexus should use the federal online screening tool ([IPAC](#)). This tool will cover more areas of the state that require the need for federal consultation than those covered by DEC's screening tools.

This Guidance is Interim and Limited

Please note that this guidance is only applicable to forestry projects and only for the time period between April 1 2023 – March 31, 2024. **It is also not applicable to projects in Nassau or Suffolk County.** DEC will continue to provide additional guidance as it becomes available on our website at: <https://www.dec.ny.gov/animals/106713.html>. The FWS will be soliciting public input into its management recommendations over the next few months as it develops long term guidance for all project types. Interested parties should consult the [FWS NLEB webpage](#) for updates and opportunities to comment.