

Frequently Asked Questions for Bats

NCDOT Projects in Divisions 1 – 8

Tricolored Bat (PESU)

Q1) What is the current status of PESU?

- A) USFWS proposed the tricolored bat for federal listing as endangered in September 2022. Based on past experience, we estimate the final decision will be made in the summer of 2024. Generally speaking, proposed species are afforded no protection under the ESA until they are formally listed with the exception that action agencies cannot jeopardize the existence of the species.

In anticipation of the listing, USFWS Raleigh Field Office has issued a [Programmatic Conference Opinion \(PCO\)](#). Once the final listing occurs, the PCO will officially become a PBO that will address NCDOT's program in Div 1-8 for 5 years (thru Dec. 2028).

Q2) How should PESU be addressed in documents?

- A) You may include the following statement in documents such as NEPA/SEPA or NRTRs:

The US Fish and Wildlife Service has issued a programmatic conference opinion (PCO) in conjunction with the Federal Highway Administration (FHWA), the US Army Corps of Engineers (USACE), and NCDOT for the tricolored bat (TCB) (*Perimyotis subflavus*) in eastern North Carolina. The PCO covers the entire NCDOT program in Divisions 1-8, including all NCDOT projects and activities. NCDOT, FHWA, and USACE have agreed to three conservation measures (listed in the PCO) which will avoid/minimize take to TCBs. These conservation measures apply to all counties in Divisions 1-8. The programmatic determination for TCB for the NCDOT program is May Affect, Likely to Adversely Affect. Once the TCB is officially listed, the PCO will become the programmatic biological opinion (PBO) by formal request from FHWA and USACE. The PBO will ensure compliance with Section 7 of the Endangered Species Act for approximately five years (effective through December 31, 2028) for all NCDOT projects with a federal nexus in Divisions 1-8, which includes [XXXX County](#), where [PROJECT #](#) is located.

Frequently Asked Questions for Bats

NCDOT Projects in Divisions 9 – 14

Northern Long-Eared Bat (NLEB)

USFWS is currently updating the IPaC framework for NLEB. Please check back later for additional information.

Tricolored Bat (PESU)

Q1) What is the current status of PESU?

- A) The tricolored bat was proposed for federal listing in September 2022. Based on convention, we estimate the final decision will be made in the summer of 2024. Generally speaking, proposed species are afforded no protection under the ESA until they are formally listed with the exception that action agencies cannot jeopardize the existence of the species.

Q2) How should PESU be addressed in documents?

- A) There are two options when addressing PESU:
- 1) If you want to have *take* coverage for a project that will have actions after formal listing (e.g. active season tree clearing), you can request a “conference” which requires an effects determination and commitments such as time of year tree clearing restrictions or obtain a take statement through the formal consultation (BA/BO) process that immediately becomes effective at formal listing.
 - 2) Do not address PESU in ESA Consultations until formal listing occurs. You can include the following statement in NRTRs, NEPA/SEPA documents, etc. if you feel it is necessary:

*On September 14, 2022, the U.S. Fish and Wildlife Service announced a proposal to list the tricolored bat (*Perimyotis subflavus* - PESU) as endangered under the Endangered Species Act. If listed, NCDOT will resolve Section 7 prior to let as appropriate. Construction activities for this project will not take place until NCDOT (in coordination with our lead federal agency) satisfies Endangered Species Act compliance for PESU.*

It is recommended you check back frequently as things are always changing. If you have additional questions, please email Cheryl Knepp clknepp@ncdot.gov or via [Teams Chat](#)