



Bird Nests-

What you need to know

Most bird nests are protected under the Migratory Bird Treaty Act (MBTA). This law says: “No person may take (kill), possess, import, export, transport, sell, purchase, barter, or offer for sale, any migratory bird, or the parts, nests, or eggs of such bird except as may be permitted under the terms of a valid permit...” Under the MBTA it is illegal to destroy a nest that has eggs or chicks in it or if there are young birds that are still dependent on the nest for survival. It is also illegal for anyone to keep a nest they take out of a tree or find on the ground unless they have a permit issued by the U.S. Fish and Wildlife Service (USFWS).



Although some nests are remarkable, it is against the law for a person without a permit to possess one for any reason.
Mark Musselman/USFWS

Under very limited circumstances, the USFWS may issue permits to take active nests. Nest removal permits are usually only issued when the particular nest is causing a human health or safety concern or the birds are in immediate danger. It is usually required that you wait for the nest to become inactive before destroying it. While it is illegal to collect, possess, or by any means transfer possession of migratory bird nests, the MBTA does not contain any prohibition that applies to the destruction of a bird nest alone (without eggs or birds), provided that no possession occurs during destruction. Even though destruction of nest by itself is not prohibited under the MBTA, nest destruction that results in the unpermitted take of

migratory birds, or their eggs is illegal and fully prosecutable under the MBTA.



Due to the biological and behavioral characteristics of some migratory bird species, destruction of their nests entails an elevated risk of violating the MBTA. For example, colonial nesting birds are highly sensitive to disturbance; destruction of their nests during or near the nesting season could result in a significant level of take. Even visitation to these rookeries by people getting too close and subsequently disrupting nesting activities, can result in take since young birds may be frightened, leave their nests prematurely, become displaced, and die from starvation as their parents return only to the vicinity of the nest site.

Some nests are hard to identify, making them more vulnerable to inadvertent destruction. Birds that nest on the ground in sandy or rocky areas are particularly difficult to identify, as are birds that nest in trees cavities or holes in the ground.



Western Burrowing Owl. USFWS

In these cases, there may be no typical nest structure like what a tree nesting species might build. One example is the Western Burrowing Owl. These owls nest in abandoned burrows of prairie dogs and other burrowing animals. Because it is hard to know if an owl is present in the burrow, they are protected at all times. They cannot be dug up or covered over without a permit.

Shorebird nests may also be hard to identify and appear to be just a small cup of twigs, such as those of terns and plovers, or just a scrape in the ground like a killdeer nest.



Killdeer on its nest. Robert Burton/USFWS

Nests of Bald and Golden Eagles are always protected under the Bald and Golden Eagle Protection Act. Destruction of these nests requires a permit at all times, whether or not they are occupied.



Bald Eagle Nest. Tina Shaw/USFWS

For further information about bird nests and permits, please contact:
U.S. Fish and Wildlife Service
Pacific Southwest Region Division of
Migratory Birds and Habitat
by emailing: permitsr8mb@fws.gov