

Wyoming Ecological Services Field Office
September 17, 2025

Protections for Migratory Birds

Most native bird species in the United States are protected by the Migratory Bird Treaty Act, 16 U.S.C. 703 (MBTA). A complete list of migratory bird species can be found in the Code of Federal Regulations at 50 CFR 10.13. Eagles are afforded additional protections under the Bald and Golden Eagle Protection Act, 16 U.S.C. 668 (BGEPA). The U.S. Fish and Wildlife Service (FWS) works with other federal agencies to promote the conservation of migratory birds which includes eagles and other raptors, on lands under their jurisdiction (66 FR 3853 [January 17, 2001]).

The MBTA protects migratory birds, their parts, their eggs and nests from possession, sale, purchase, barter, transport, import, export, and take. The regulatory definition of take, defined at 50 CFR 10.12, means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to hunt, shoot, wound, kill, trap, capture, or collect a migratory bird. Activities that result in the intentional, unpermitted take of migratory birds, their parts, or their eggs are illegal and fully prosecutable under the MBTA. For additional information concerning nesting birds and protections under the MBTA, please see the FWS's Migratory Birds Program page at [Migratory Birds | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/migratorybirds). As discussed below, BGEPA provides additional protections for bald and golden eagles and their nests.

The Wyoming Ecological Services Field Office works to raise public awareness about the possible occurrence of birds in proposed project areas and the risk of killing or injuring birds or destroying active nests. Our office provides recommendations to minimize the likelihood that injury or death will occur. We encourage you to coordinate with our office before conducting actions that could lead to the death or injury of a migratory bird, their young, eggs, or the abandonment or destruction of active nests (*e.g.*, construction or other activity in the vicinity of an active nest). If nesting migratory birds are present on or near a project area, project timing is an important consideration during project planning. If nest manipulation is proposed for a project in Wyoming, the project proponent should contact the FWS Migratory Bird Management Office in Lakewood, Colorado at 303-236-8171, migratorybirdpermits@fws.gov, or on-line at [Migratory Bird Permits | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/migratorybirdpermits) prior to work commencing to see if a permit can be obtained.

To avoid and minimize injury and killing of migratory birds, project proponents can explore the FWS [Best Practices by Industry | U.S. Fish & Wildlife Service](https://www.fws.gov/bestpractices). For infrastructure (or facilities) that have potential to cause direct avian mortality (*e.g.*, guyed towers, airports, wastewater disposal facilities, transmission lines), we recommend locating infrastructure away from areas with high avian-use such as those used for nesting, foraging, roosting or migrating, and the travel corridors between high-use areas. If wildlife survey data available for the proposed project area do not provide the detail needed to identify normal bird habitat use and movements, we recommend contacting our office for guidance on collecting additional information prior to determining locations for any infrastructure that may create an increased potential for avian mortalities. To minimize eagle and large raptor collision and electrocution risk associated with above-ground power lines refer to the technical references *Suggested Practices for Avian*

Protection on Power Lines: The State of the Art in 2006 and Reducing Avian Collisions with Power Lines: The State of the Art in 2012, as well as updated versions or new suggested practice documents, as they become available (available at aplic.org).

Birds of Conservation Concern

Beyond those protections afforded by the MBTA for all migratory birds, we encourage project proponents to develop and implement additional conservation measures for Birds of Conservation Concern as well as high-priority species identified in the Wyoming Bird Conservation Plan. Examples of measures can be found on the FWS document [Nationwide Avoidance & Minimization Measures for Birds | FWS.gov](#). The [FWS Birds of Conservation Concern \(2021\)](#) report identifies “species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing” under the Endangered Species Act (16 U.S.C 1531 *et seq.*). The report is intended to encourage coordinated and proactive conservation actions among federal, State, and private partners.

Additional Protections for Eagles

The BGEPA includes provisions not included in the MBTA, such as the protection of unoccupied bald and golden eagle nests and a prohibition on disturbing eagles. Specifically, it prohibits anyone, without a permit issued by the Secretary of the Interior, from “taking” bald or golden eagles, including their parts (including feathers), nests, or eggs, which includes collection, possession, molestation, disturbance, destruction, or killing. In the BGEPA, the term “disturb” is defined as “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.”

The BGEPA includes limited exceptions to its prohibitions through permitting. The FWS has issued regulations concerning the permit procedures for exceptions to BGEPA’s prohibitions, including permits to take or disturb bald and golden eagle nests which interfere with resource development or recovery operations. Issued regulations identify the conditions under which a permit may be issued (*e.g.*, status of eagles, need for action, application requirements, mitigation, monitoring). For additional information specific to bald eagles and golden eagles, please see [Eagle Management | U.S. Fish & Wildlife Service \(fws.gov\)](#).

Wyoming Ecological Services Field Office Recommended Steps for Raptor Conservation

Agencies and proponents using the following steps in early project planning can more easily minimize impacts to raptors, streamline planning and permitting processes, and incorporate measures into project design:

1. Coordinate with appropriate FWS offices, the Wyoming Game and Fish Department, tribal governments, and land-management agencies at the earliest stage of project planning.

2. Identify species and distribution of raptors occurring within the project area by searching existing data sources (*e.g.*, Wyoming Game and Fish Department, Wyoming Natural Diversity Database, federal land-management agencies) and by conducting on-site surveys.
3. Plan and schedule short-term and long-term project disturbances and human-related activities to avoid raptor nesting and roosting areas, particularly during crucial breeding, migration, and wintering periods.
4. Determine location and distribution of important raptor habitat, nests, roost sites, travel corridors, and, if feasible, available prey base in the project impact area.
5. Document the type, extent, timing, and duration of raptor activity in important use areas to establish a baseline of raptor activity.
6. Ascertain the type, extent, timing, and duration of development or human activities proposed to occur, and the extent to which this differs from baseline conditions.
7. Evaluate cumulative effects to raptors from proposed projects when added to past, present, and reasonably foreseeable future actions. Ensure that project mitigation adequately addresses cumulative effects to raptors.
8. Minimize loss of raptor habitats and avoid long-term habitat degradation. Mitigate for unavoidable losses of high-valued raptor habitats, including (but not limited to) nesting, roosting, migration, and foraging areas.
9. Monitor and document the status of raptor populations and, if feasible, their prey base post-project completion, and evaluate the success of mitigation efforts.
10. Document meaningful data and evaluations in a format (*e.g.*, GIS files including metadata, spreadsheet) that can be readily shared and incorporated into wildlife databases.
11. Train operation and maintenance personnel and other on-site staff on the relevant requirements of any permit, including how to report and dispose of discovered bird remains. Appropriate staff should be trained on how to properly handle dead or injured birds and how to contact federally permitted rehabilitator(s) and licensed veterinarian(s) in your area. The FWS maintains a website to assist in [Finding a Bird Rehab Facility](#) in your area.
12. If eagle remains are discovered, the FWS has guidelines for contacting and shipping eagle remains to the [National Eagle Repository](#).

Protection of nesting, wintering (including communal roost sites), and foraging activities is considered essential to raptor conservation. To promote the conservation of migratory bird populations and their habitats, federal agencies should implement strategies directed by Executive Order 13186, “Responsibilities of Federal Agencies to Protect Migratory Birds” (66 FR 3853 [January 17, 2001]).

Recommended Seasonal and Spatial Buffers to Protect Nesting Raptors from disturbance for Non-wind Project Activities

Raptors are particularly sensitive to disturbance (which may result in take). Therefore, we recommend implementing spatial and seasonal buffer zones to protect individual nest sites/territories (Table 1). These buffers serve to minimize visual and auditory impacts associated with human activities. Ideally, buffers would be large enough to protect the breeding pair from visual and acoustic disturbance, preserve the existing nest trees or the structural

integrity of rock outcrops with nests, minimize loss of important foraging areas, and provide for alternative or replacement nest trees/alternate nests. The size and shape of effective buffers can vary depending on the topography and other ecological characteristics surrounding the nest site. Adequate nesting buffers will help minimize impacts of human activities on breeding raptors, their young or eggs. For some activities, site-specific analysis and careful evaluation of project type, level and duration of development, surrounding terrain, and the degree of bird habituation to disturbance may be particularly important. Please contact the Wyoming Ecological Services office for coordinated development of project-specific nest buffer sizes and shapes.

As discussed above, for infrastructure that may create an increased potential for raptor mortalities, the spatial buffers listed in Table 1 may not be sufficient to reduce the incidence of raptor mortalities. Because raptor nests are often initially not identified to species (*e.g.*, preliminary aerial surveys in winter), we first recommend a generic raptor nest seasonal buffer between January 1 to August 31 with a spatial buffer of 1-mile until the species has been identified. Once the raptor species is confirmed and the project type and level and duration of development is considered and evaluated, we then make species-specific and site-specific recommendations on seasonal and spatial buffers. In open areas where there is little or no forested or topographical separation, distance alone may serve as the buffer and in these areas the Wyoming ES may recommend up to a 1-mile buffer for raptor nests depending on site-specific analysis or other evidence-based rationale.

We recommend that human-use activities proposed to occur within the buffers of an occupied nest should only proceed after coordination with the FWS, State, and Tribal wildlife resource management agencies, and/or land-management agency biologists. If, after coordination, it is determined that due to human or environmental safety or otherwise unavoidable factors, activities are required to occur within the spatial and seasonal buffers, those activities should be planned to minimize impacts with monitoring to determine whether impacts to birds are occurring. Long-term land-use activities (permanent surface occupancy) should not occur within the species-specific spatial buffers of occupied nests year-round, where possible. Mitigation for habitat loss or degradation should be identified and planned in coordination with applicable agencies/personnel.

Please contact the Wyoming Ecological Services Field Office if you have any questions regarding these recommendations, or if you require technical assistance regarding the MBTA and BGEPA. The recommended spatial and seasonal buffers are voluntary/non-regulatory (unless made a condition of permit or license), and they do not supersede regulatory provisions of the MBTA, BGEPA, Migratory Bird Memorandum dated June 14, 2018, or the Endangered Species Act. Remaining in compliance with the MBTA or BGEPA is the responsibility of the project proponent. Assessing legal compliance with the MBTA or BGEPA and the associated implementing regulations is the authority and responsibility of FWS law enforcement personnel. Wyoming Ecological Services Office recommendations do not supersede Federal, State, local, or Tribal regulations or permit conditions.

Table 1 - Wyoming Ecological Services Field Office's Recommended Spatial and Seasonal Nest Buffers for Raptors for Non-Wind Energy Development Projects in Wyoming

Common name	Spatial buffer (miles)	Seasonal buffer
golden eagle	See Eagle Management U.S. Fish & Wildlife Service	
ferruginous hawk	1.00	March 15 – July 31
Swainson's hawk	0.25	April 1 – August 31
bald eagle	See Eagle Management U.S. Fish & Wildlife Service	
prairie falcon	0.50	March 1 – August 15
peregrine falcon	0.50	March 1 – August 15
short-eared owl	0.25	March 15 – August 1
burrowing owl	0.25	April 1 – September 15
American goshawk	0.50	April 1 – August 15
osprey	0.25	April 1 – August 31
Cooper's hawk	0.25	March 15 – August 31
sharp-shinned hawk	0.25	March 15 – August 31
red-tailed hawk	0.25	February 1 – August 15
northern harrier	0.25	April 1 – August 15
merlin	0.50	April 1 – August 15
American kestrel	0.125	April 1 – August 15
common barn owl	0.125	February 1 – September 15
northern saw-whet owl	0.25	March 1 – August 31
boreal owl	0.25	February 1 – July 31
long-eared owl	0.25	February 1 – August 15
great horned owl	0.125	December 1 – September 30
northern pygmy-owl	0.25	April 1 – August 1
eastern screech -owl	0.125	March 1 – August 15
western screech-owl	0.125	March 1 – August 15
great gray owl	0.25	March 15 – August 31

References/resources

Avian Power Line Interaction Committee (APLIC). 2006. Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006. Edison Electric Institute, APLIC, and the California Energy Commission. Washington, D.C. and Sacramento, CA.

Avian Power Line Interaction Committee (APLIC). 2012. Reducing Avian Collisions with Power Lines: The State of the Art in 2012. Edison Electric Institute and APLIC. Washington, D.C.

Edison Electric Institute's Avian Power Line Interaction Committee and U.S. Fish and Wildlife Service. 2005. Avian Protection Plan Guidelines.

U.S. Fish and Wildlife Service. 2000. Siting, Construction, Operation and Decommissioning of Communications Towers and Tower Site Evaluation Form (Director's Memorandum September 14, 2000), Arlington, Virginia.

U.S. Fish and Wildlife Service. 2007. National Bald Eagle Management Guidelines. United States Department of Interior, Fish and Wildlife Service, Arlington, Virginia. 23 pp.

U.S. Fish and Wildlife Service. 2018. Migratory Bird Permit Memorandum, Destruction and Relocation of Migratory Bird Nest Contents (Director's Memorandum June 14, 2018), Washington, D.C.

U.S. Fish and Wildlife Service. 2021. Birds of Conservation Concern 2021. United States Department of the Interior, U.S. Fish and Wildlife Service, Migratory Birds, Falls Church, Virginia.