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PLANNING AHEAD TO REDUCE THE RISK OF DETRIMENTAL EFFECTS TO MIGRATORY BIRDS, AND THEIR NESTS AND EGGS

If you are active on land or in the water in Canada, you need to be aware of the legal obligations regarding the protection of migratory birds, including the prohibition against disturbing or destroying the nests and eggs of migratory birds. Planning ahead can help you comply with the law and minimize the risk of detrimental effects to migratory birds. Assessing the risks of effects is a first step for developing appropriate prevention and mitigation measures that help maintain sustainable populations of migratory birds.



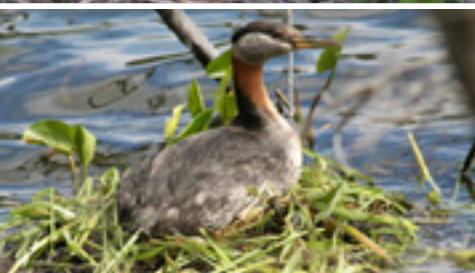
Why is it important to protect migratory birds and their nests and eggs?

Canada is home to approximately 450 native species of birds, the majority of which are protected under the *Migratory Birds Convention Act, 1994* (MBCA) and are collectively referred to as “migratory birds” (see *list of birds protected in Canada under the MBCA* on our website). Some of these birds—ducks, geese, herons, songbirds—are among the most familiar wildlife of the Canadian landscape, and are part of the cultural and spiritual experience of many Canadians.

Migratory birds play important roles in our environment; for example, they contribute to environmental quality by protecting agricultural and forest products from pests, and promote the health and diversity of ecosystems through pollination and seed dispersion. Expenditures on nature-related activities, including migratory bird watching and hunting, also make a significant contribution to our economy, and are estimated to be in the billions of dollars annually.

Implementing the *conservation of migratory birds* requires attention to key factors, including the protection of the birds themselves, their nests and eggs. For example, the breeding period is critical in the life cycle of migratory birds, to maintain sustainable populations. Most migratory bird species build a nest and/or find a safe place from predators and harsh weather to lay and incubate their eggs and to raise their young.

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Migratory birds, the nests of migratory birds and/or their eggs can be inadvertently harmed or disturbed as a result of many activities—including but not limited to clearing trees and other vegetation, draining or flooding land, or using fishing gear.

This inadvertent harming, killing, disturbance or destruction of migratory birds, nests and eggs is known as *incidental take*. Incidental take, in addition to harming individual birds, nests or eggs, can have long-term consequences for migratory bird populations in Canada, especially through the cumulative effects of many different incidents.

What is the law?

The MBCA and its regulations protect migratory birds and prohibit the disturbance or destruction of migratory bird nests and eggs in Canada. The

legislation and regulations apply to all lands and waters in Canada, regardless of ownership (see *How are migratory birds protected in Canada?* on our website). Environment Canada is responsible for administering the MBCA on behalf of the federal government.

What is Environment Canada's role?

In the context of incidental take, Environment Canada works cooperatively with individuals, governments and industries to minimize the risk of effects to migratory birds, to maintain sustainable populations and to achieve compliance with the law. To attain these goals, Environment Canada:

- Promotes awareness and compliance of the legislation and regulations;
- Issues expert guidance on how to avoid incidental disturbance or destruction of migratory birds and their nests and eggs;
- Develops and communicates Bird Conservation Region Strategies that provide information about threats to migratory bird conservation and help establish priorities for conservation actions; and
- Undertakes activities to verify compliance with the legislation, investigates alleged infractions and ensures deterrence through a combination of game officer presence and court prosecutions.

Environment Canada also encourages the development and application of Beneficial Management Practices (BMPs) by individuals and companies to protect and conserve migratory birds. For background information on BMPs, refer to *Environment Canada's approach to the development of BMPs* on our website.

Please note that Environment Canada cannot provide authorizations or permits for the incidental take of migratory bird nests and eggs. Activities affecting migratory birds and/or their nests and eggs, regardless of their scale, the level of potential detrimental effects on bird populations or the nature of mitigation measures taken, can result in violations of the *Migratory Birds Regulations* (MBR).

What should I do if I find a migratory bird's nest?

If nests containing eggs or young of migratory birds are located or discovered, all disruptive activities in the nesting area should be halted until nesting is completed. Any nest found should be protected with a buffer zone appropriate for the species and the surrounding habitat until the young have naturally left the vicinity of the nest.

Moreover, if there are migratory bird nests where you plan to work, consider options like avoiding, adapting, rescheduling or relocating activities that could disturb or destroy the nests.

How do I know if migratory birds may be affected or will be nesting in the area?

In order to help ensure that you are complying with the MBCA and the MBR, you should first determine the likelihood of the presence of migratory birds and their nests or eggs when planning activities to be carried out. It is recommended to use a scientifically sound approach that considers the available bird habitats, the migratory bird species likely to be encountered in such habitats, and the likely time period of encounters.



You should plan to avoid engaging in potentially destructive or disruptive activities at key locations or during key periods, including the breeding periods and periods of high usage such as migration and/or feeding, which vary by region and by species, in order to reduce the risk of harmful impacts on migratory birds and the risk of nest destruction or disturbance (see *Risk factors for migratory birds* and *Timing of breeding of birds in Canada* on our website).

If you need to determine whether migratory birds are nesting in an area at a particular time, consider using non-intrusive monitoring methods in order to prevent disturbing migratory birds while they may be nesting. Except when nests are known to be easy to locate,

active nest searches are generally not recommended because 1) searchers may disturb or stress nesting birds, and 2) in most habitats, the likelihood of detecting all nests in a given search area is known to be low.

Read the *Specific considerations related to determining the presence of nests* on our website, and assess and document what is the most appropriate approach for the circumstance. Remember that searching for nesting birds generally requires effort and expertise. Finding all nests in an area is generally unlikely; therefore, incidental take is also unlikely to be avoided through an approach based exclusively on conducting active nest searches prior to industrial or other operations.



In Summary

To avoid the incidental take of migratory birds, nests and eggs, it is recommended to plan ahead and:

- Ensure that you are aware of and understand the relevant provisions of the *Migratory Birds Convention Act, 1994* and the *Migratory Birds Regulations* and, where applicable, the *Species at Risk Act* and provincial, territorial or other laws and regulations;
- Determine the likelihood of the presence of migratory birds, their nests or eggs when planning activities to be carried out, by using a scientifically sound approach that considers the available bird habitats, what migratory bird species are likely to be encountered in such habitats, and the likely time periods when they would be present;
- Avoid engaging in potentially destructive or disruptive activities at key locations or during key periods, including the breeding periods and periods of high usage, such as migration and/or feeding periods that vary by region and by species, in order to reduce the risk of impacts on migratory birds and the risk of nest destruction or disturbance (see *Risk factors for migratory birds* and *Timing of breeding of birds in Canada* on our website);
- In many circumstances, affecting migratory bird nests and eggs is unlikely to be avoided through an approach based exclusively on conducting active nest searches prior to industrial or other operations (see *How do I know*

if migratory birds may be affected or will be nesting in the area? and Specific considerations related to determining the presence of nests).

You may also want to consider:

- Developing and implementing appropriate preventive and mitigation measures to minimize the risk of detrimental effects and to help maintain sustainable populations of migratory birds;
- Incorporating migratory bird protection measures and relevant conservation objectives and actions into policies, procedures, plans, directives and compensatory plans for your project or activity (see the *Bird Conservation Region Strategies* on our website).

Note that the appropriate measures need to be decided on a case-by-case basis. It is the responsibility of the individual or company undertaking the activities to determine these measures.

In some cases, appropriate measures that minimize the risk of detrimental effects to migratory birds and their nests and eggs could be incorporated into BMPs. (Refer to *Environment Canada's approach to the development of Beneficial Management Practices* on our website.)

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Where can I get more information?

For more information about the MBCA and the MBR or for advice on how to avoid incidental take of, or reduce risks of detrimental effects to, migratory bird nests and eggs, please visit Environment Canada's website or contact the Environment Canada regional office nearest you.



Environment Canada's Website:
www.ec.gc.ca/paom-itmb



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