

FEDERAL COMMUNICATIONS COMMISSION
FACT SHEET: MIGRATORY BIRDS
May 12, 2016

MIGRATORY BIRDS AND THEIR LEGAL PROTECTION

A bird is migratory if it spends its nonbreeding season (winter) in a different area than its breeding season (spring and summer). Many North American migratory birds breed in the boreal and temperate forests of North America and winter in Mexico or Central America. The Arctic Tern migrates the farthest distance annually, approximately 44,000 miles round trip. Bird migration corridors describe the geographic distribution of bird migration routes, mostly for migrating waterfowl (e.g., ducks and geese). Migrating songbirds (e.g., warblers, thrush, many sparrows) tend to migrate at night in broader fronts or flocks hundreds of miles wide.

The Migratory Bird Treaty Act (MBTA) makes it illegal for anyone **“to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof.”** See 16 U.S.C. § 703(a). Species protected are listed in 50 C.F.R. § 10.13.

The Commission recognizes that the effects that communications facilities may have on migratory birds should be considered as part of the tower operator’s pre-construction review under the National Environmental Policy Act (NEPA; https://apps.fcc.gov/edocs_public/attachmatch/DOC-312921A1.pdf). Presently, an Environmental Assessment is required when the height of an antenna structure will be greater than 450 feet above ground level. See 47 C.F.R. § 1.1307, Note to paragraph (d).

HUMAN ACTIVITIES THAT THREATEN MIGRATORY BIRDS

Vegetation removal, mowing, predation (e.g., cats), pesticides, and collisions with vehicles, transmission wires, windows, wind turbines and communications towers can harm or kill birds and their nestlings, and destroy their nests.

Given the long distances that birds travel during migration, daily refueling stops are critical. These stopover sites for migrant birds are especially critical on either end of large water crossings, such as over the Gulf of Mexico. Development along the Gulf Coast has decreased availability of these stopover habitats.

Relevant to the charge of the FCC, the lights of tall structures can attract night migrating birds, which can lead to collisions with tower structures and guy wires as well as exhaustion from the

birds' circling towers. Birds also may collide with tower guy wires and utility lines during their daily movements

CHOICES THAT CAN MINIMIZE OR PREVENT ADVERSE IMPACTS TO MIGRATORY BIRDS

Tower constructors and operators have many opportunities to reduce or prevent the effects that towers can have on migratory birds. Importantly, many of the measures taken to protect birds also reduce costs.

Before construction begins:

- **Use tower lighting systems without steady-burning side markers (L-810 lights).** Birds are attracted to non-flashing red lights, such as L-810 side-marker lights, and are much less attracted to flashing lights on towers, such as L-864 and L-865 lights. When planning the construction of your tower, consider using tower light systems without steady-burning side-markers (L-810). Additional information on the bird-friendly lighting systems is here: http://wireless.fcc.gov/migratory-birds/Light_Changes_Information_Update_120415.pdf
- **Use motion-sensor security lighting instead of constant illumination at night.** The elimination of continuously burning security lights minimizes bird attraction to the site and reduces energy costs. Tower operators can use motion sensor-triggered security lighting, which promotes tower safety and reduces the possibility of attracting migratory birds.
- **Locate facilities at previously disturbed sites.** Developers have opportunities to minimize the elimination and disturbance of vegetation by constructing on already disturbed sites, such as agricultural fields or developed sites, instead of removing natural, native vegetation.
- **Use existing roads, instead of developing new roads.** Using or improving existing roads minimizes costs and land disturbance. When a new road is necessary, there are ways to minimize its impact. For example, in forested habitats, the tree canopy might be allowed to remain, thereby minimizing changes in forest temperature and sun exposure in habitat.
- **Consider using bird flight diverters on tower guy wires and above-ground utility wires.** Bird flight diverters are spherical or ribbon-like objects attached to guy wires or utility wires. Diverters make the obstructions more visible to birds and allow them to avoid collisions with wires. Studies have found the number of birds colliding with marked utility lines to be 50% to 80% lower than the numbers of birds colliding with unmarked utility lines. While no independent published studies have specifically examined the effectiveness of bird flight diverters on reducing bird collisions with communications tower guy wires, many natural resource regulators recommend installing bird flight diverters on communications tower guy wires, especially if the tower is sited near wetlands, rare bird populations, raptor migration areas, or other high bird concentration areas. Diverters should be spaced 15 feet apart on towers less than 100 feet in height and 30 feet apart on towers more than 100 feet in height.

- **Contact regional and local natural resource agencies for site-specific information.** Regional and local natural resource agencies may have additional site-specific suggestions and ideas to reduce adverse impacts to migratory birds.

During construction:

- **Avoid construction during the nesting season.** Birds are more likely to abandon nest areas if disturbed during the nesting season. Most bird nesting occurs in late April-July in the lower 48 states.
- **Encourage growth of native plant species instead of invasive species.** During and after construction activities, developers can encourage the regrowth of native plant species by seeding cleared areas with native seeds and prevent the spread of invasive plant species by washing the wheels of construction vehicles (<http://www.fs.fed.us/eng/pubs/pdf/05511203.pdf>). Guy wire lanes and service roadsides can be planted with low-maintenance native shrubs or grasses. Plantings that exclude taller, less manageable vegetation also reduce maintenance costs and provide habitat for birds, butterflies and other wildlife (<https://archive.epa.gov/greenacres/web/html/factsht.html>). Regional and local natural resource agencies may have additional site-specific suggestions for replanting native, low-maintenance species that may benefit birds, butterflies, and other wildlife.

After construction:

- **Avoid mowing and brush removal during the nesting and active seasons (circa April – September).** Many migratory birds nest in grassy areas and shrubs. Removing or mowing this vegetation damages nests and kills nestlings. Mowing can also cause fatalities or injury to rare tortoises, turtles and snakes, such as the Gopher Tortoise, Wood Turtle, and Indigo Snake. If tower sites require mowing, it is preferable to do so in October through March when the birds are not nesting and many tortoises, turtles, and snakes are hibernating (also called brumating in reptiles). If possible, set the mower height to 12-18 inches to prevent tortoise and turtle collisions and to leave some cover for birds and other wildlife.
- **Avoid removing or disturbing nests during nesting season.**

Sources of additional information:

Bird Biology and Laws

<http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtintro.html> (accessed 5/12/16)

<http://www.fws.gov/laws/lawsdigest/migtrea.html> (accessed 5/12/16)

<http://www.stateofthebirds.org/> (accessed 5/12/16)

https://apps.fcc.gov/edocs_public/attachmatch/DOC-312921A1.pdf (accessed 5/12/16)

Ways to Reduce Risk to Birds and other Wildlife

http://wireless.fcc.gov/migratory-birds/Light_Changes_Information_Update_120415.pdf (accessed 5/12/16)

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.

http://www.aplic.org/uploads/files/11218/Reducing_Avian_Collisions_2012watermarkLR.pdf (accessed 5/12/16).

Natural Heritage and Endangered Species Program, Massachusetts Division of Fisheries and Wildlife. 2009. Mowing Advisory Guidelines in Rare Turtle Habitat: Pastures, Successional Fields, and Hayfields.

<http://www.mass.gov/eea/docs/dfg/nhesp/species-and-conservation/mowing-guidelines.pdf> (accessed 5/12/16).

<http://www.dnr.state.mn.us/roadsidesforwildlife/index.html> (accessed 5/12/16)

Native Plants

<https://archive.epa.gov/greenacres/web/html/factsht.html> (accessed 5/12/16)

<http://www.fs.fed.us/eng/pubs/pdf/05511203.pdf> (accessed 5/12/16)

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