

# TST- BA Migratory Birds and Breeding Birds (Project Supervisors and ALL MPAD Contractor Staff) *Federal and Provincial Legislation*



## FEDERAL LEGISLATION

The ***Migratory Birds Convention Act (MBCA)*** and the ***Migratory Birds Regulations (MBR)*** protect migratory birds, their nests and eggs on all land tenures anywhere in Canada and in ocean waters.

### What species do these regulations apply to?

They apply to native migratory birds named in the [convention](#) such as ducks, geese, shorebirds, swallows, flycatchers, woodpeckers, hummingbirds and more. They do not apply to hawks, eagles, falcons, owls, corvidae (jays, crows, ravens) and grouse.

### What are the prohibitions and protections?

Prohibitions include the deposit of a substance that is harmful to migratory birds to water in an area frequented by migratory birds (**MBCA 5.1(1)**). A person must not capture, kill, take injure or harass a migratory bird (**MBR 5(1)(a)**), or damage, destroy, remove or disturb a nest, nest shelter, eider duck shelter or duck box (**MBR 5(1)(c)**).

All migratory bird nests are protected when they contain a live bird or viable egg. The nests of 18 species listed in [Schedule 1](#) of the **MBR** are protected at all times. These nests may only be removed following [registration](#) of the nest and confirmation that the nest has been abandoned for the species specific designated waiting period outlined in the schedule.

**Schedule 1 of MBR** – species on the list with the potential for interaction with BCTS operations in the TST BA

Species	Wait Time (months)	Forestry Activities
Pigeon Guillemot	12	Shoreline sites only
Rhinoceros Auklet	12	Shoreline sites only
Great Blue Heron*	24	All forestry activities
Fork-tailed Storm Petrel	12	Shoreline sites only
Pileated Woodpecker	36	All forestry activities <a href="#">Cavity Identification Guide</a>

\* Herons, their eggs and nests, are protected by the BC *Wildlife Act*. A [permit](#) would be required to remove a nest.

Migratory bird species that are listed as Endangered, Threatened or Extirpated on Schedule 1 of the ***Species at Risk Act*** ([list](#)) may also have year round nest protection if a nest is included in the definition of their residence habitat (**SARA s33**). A [permit](#) under s73 would be required to remove a nest of these species.

**SARA Schedule 1 Birds** – species that breed in the TST BA and have inactive nest protection: **Barn Swallow** and **Marbled Murrelet**

## PROVINCIAL LEGISLATION

Section 34 of the ***Wildlife Act*** outlines provisions related to birds and their nests: *A person commits an offence if the person, except as provided by regulation, possesses, takes, injures, molests or destroys:*

- a) *A bird or its egg,*
- b) *The nest of an eagle, peregrine falcon, gyrfalcon, osprey, heron or burrowing owl, or*
- c) *The nest of a bird not referred to in paragraph (b) when the nest is occupied by a bird or its egg.*

### Where and to what species does this apply?

This act applies on all land tenures in BC and it applies to all native bird species in BC as well as species that have extended their ranges into BC unless the species was introduced by human intervention. A [permit](#) would be required to remove the nest of any species listed in s34(b) of the act and would only be issued in special circumstances.

### Additional Resources:

[Migratory birds - Canada.ca](#)

[FAQ MBR 2022](#)

[Nest Protection MBR](#)

[Avoiding harm to migratory birds - Canada.ca](#)

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## Bird Nests

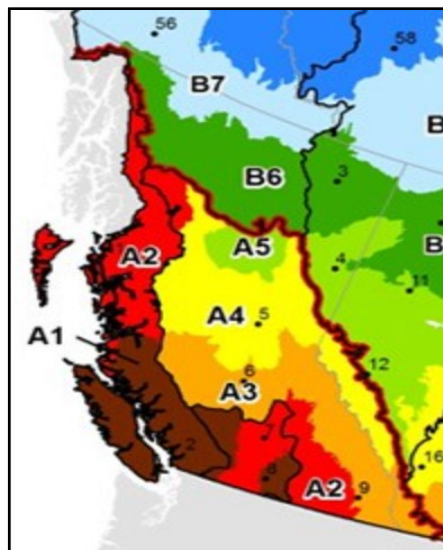
**Locations:** nests can be located in banks or on cliffs, on the ground, in vegetation or trees, within tree cavities and on structures such as buildings or bridges.

**Nest types:** nests can be built of sticks, moss, grass, hair and other fibers, they can be a scrape or shallow depression on the ground or they can be in a cavity, crevice or burrow into trees, cliffs or banks.

**Active nests:** evidence of an active nest include an adult perched in the nest, adult birds performing distraction displays, persistent alarm calls, birds carrying food or nesting materials to a location, accumulated droppings or whitewash below a nest. All active nests are protected. **Do not disturb, remove or relocate an active nest.**

**Inactive nests:** the inactive nests of birds outlined in the above summary and named on this card are protected by provincial and federal legislation. Photos of nests of these species are included on the following pages. If unsure of the species of a nest take photos and seek the advice of a biologist.

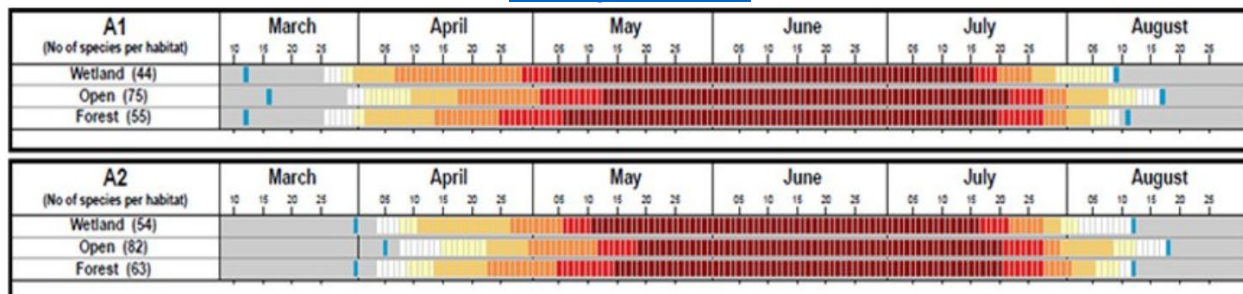
## Nesting Zones



### Timing of migratory bird breeding in BC

To determine the time periods when migratory bird nests are likely to be present, identify the nesting zone where your activities will occur and then refer to the nesting calendar associated with that zone.

## Nesting Calendars



**Legend for nesting calendars: Number of species predicted to be nesting as a percentage of the total number of species known to nest in the habitat type** (Blue markers show extreme dates predicted for some atypical parts of the nesting zone where nesting could be earlier or later)



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## Summary

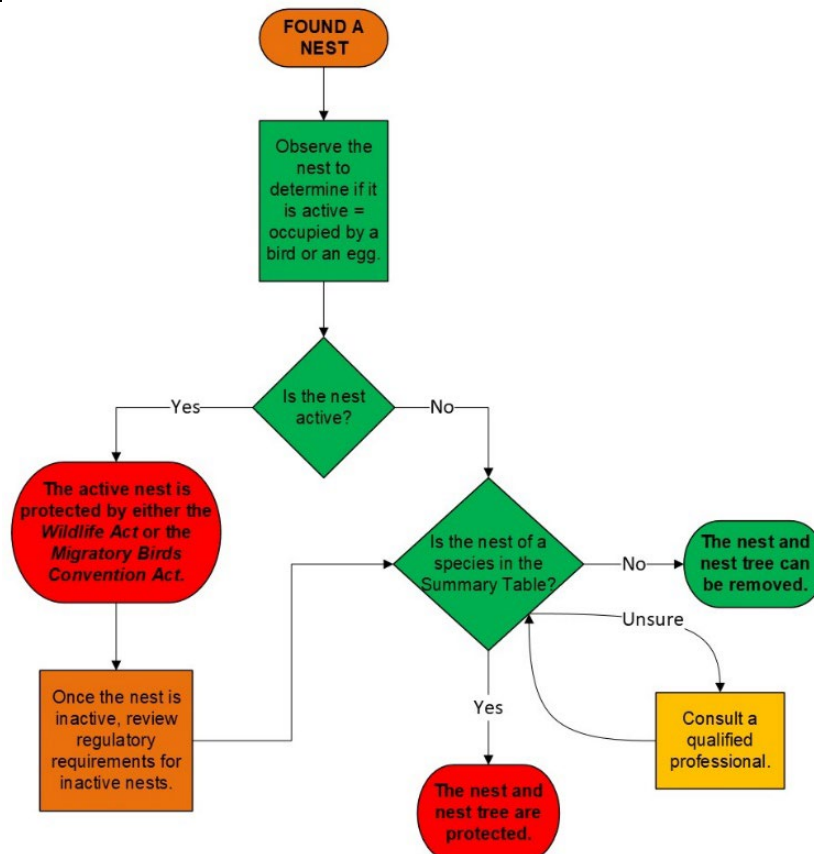
- **ALL ACTIVE** bird nests are protected during all activities on all land tenures in BC.
- **ALL INACTIVE** bird nests that meet the following criteria are protected during all activities on all land tenures in BC (summarized in the table below):
  - species listed in Schedule 1 of the *Migratory Birds Regulations*,
  - migratory birds listed as endangered, threatened, or extirpated on Schedule 1 of the *Species at Risk Act*, if nests are included in the definition of the residence for the species, *and*
  - species named in Section 34 of the *Wildlife Act*.
- If nest removal is required, review all applicable provincial and federal regulations to determine if a permit or other conditions are required prior to nest removal.

**Inactive Nests** of the following species that could be found in the TST Business Area\* have regulatory protection (see photos on next page)

<b>Great Blue Heron</b> <i>Wildlife Act</i> Schedule 1 <i>Migratory Birds Regulations 2022</i>	<b>Pileated Woodpecker</b> Schedule 1 <i>Migratory Birds Regulations 2022</i>	<b>Barn Swallow</b> Schedule 1 of <i>Species at Risk Act</i>	<b>Marbled Murrelet</b> Schedule 1 of <i>Species at Risk Act</i>
<b>Bald Eagle</b> <i>Wildlife Act</i>	<b>Golden Eagle</b> <i>Wildlife Act</i>	<b>Peregrine Falcon</b> <i>Wildlife Act</i>	<b>Osprey</b> <i>Wildlife Act</i>

\*Species on Schedule 1 of the *Migratory Birds Regulations* that nest at shoreline sites only have not been included as potential impacts are limited to specific development activities such as log dumps and barge ramps, not general forestry activities.

## Regulatory requirements associated with bird nests in the TST Business Area:





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The inactive nests of these species have regulatory protection.



**Pileated Woodpecker Cavities (Schedule 1 MBR)**



**Barn Swallow Nest (SARA)**



**Bald Eagle Nest (Wildlife Act)**

Golden Eagle tree nests look similar, or nests can be constructed on cliff ledges



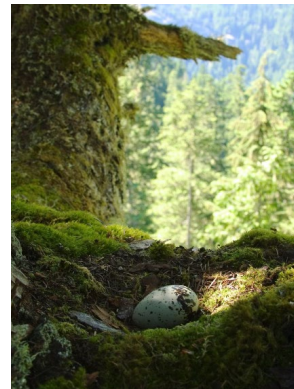
**Osprey Nest (Wildlife Act)**



**Great Blue Heron Nests (Wildlife Act, Schedule 1 MBR)**



**Peregrine Falcon Nest (Wildlife Act)**



**Marbled Murrelet Nest (SARA)**