

AVOIDING DELAYS DUE TO OSPREY NESTING – REGULATIONS, WORK PRACTICES, AND TIMING



Osprey (*Pandion haliaetus*) are notorious for constructing nests on tower structures in coastal areas or near large bodies of water, for endangering tower climbers through aggressive behavior, and for causing deployment and maintenance delays.

OSPREY ARE PROTECTED BY THE MBTA

Osprey are protected by the Migratory Bird Treaty Act (MBTA) and may be afforded additional state protections in some locations. The MBTA states that unless permitted, it is unlawful to pursue, hunt, take, capture, or kill; attempt to take, capture or kill; possess, offer to sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or received any migratory bird, part, nest, egg, or product. Activities that jeopardize osprey eggs and young can be construed as resulting in a “take”. Therefore, construction activities, particularly work on a tower or other structure that supports an “active” osprey nest, are discouraged. An active nest is generally defined as a nest with eggs or dependent (flightless) young.

CAN WORK BE PERFORMED WHILE OSPREY ARE PRESENT?

In the event that work must be performed on a tower while a nest is active and potential harm would be caused to an osprey, a Migratory Bird Depredation Permit may be required. Osprey tolerance to human disturbances can vary greatly. Generally, adult osprey will not tolerate work on a tower structure while an active nest is present and will flush from the nest and may become aggressive towards climbers. Tower work where active nests are present may be permitted by regulatory agencies on a case-by-case basis in situations where the potential for impacts can be minimized. Where work on a tower with an active nest has been authorized, a biologist should be present on-site during work activities to monitor osprey reactions and to assist in minimizing potential MBTA violations.

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CAN OSPREY NESTS BE REMOVED?

Removal of inactive nests is allowed in most locations without the need for a permit. The MBTA states “While it is illegal to collect, possess, and by any means transfer possession of any migratory bird nest, the MBTA does not contain any prohibition that applies to the destruction of a bird nest alone (without birds or eggs), provided that no possession occurs during the destruction.”

WHEN IS NESTING SEASON?

In most locations in the Southern, Mid-Atlantic, and Mid-Western United States, osprey breed and lay eggs in late winter or early spring, and raise young in late spring and over the summer months. In the southern-most states, osprey may breed and raise young during the entire year. However, specific dates of egg laying and nest fledging by young birds can be unpredictable, can vary widely depending on location, and may vary from year to year in the same location.

In the interest of preventing violations of the MBTA or other migratory bird/osprey regulations, only an experienced, qualified biologist should make nest activity determinations and/or conduct monitoring of work while an active nest is present. ECA has professional biologists on staff who have conducted many nest activity surveys and active nest monitoring events. ECA can make recommendations for installation of nesting deterrents to deter nest re-building after nests have been removed. In addition,

ECA can provide valuable recommendations for timing of maintenance and deployment activities, nest removal, and regulatory permit assistance.

ECA has performed hundreds of osprey, eagle, and migratory bird evaluations throughout the Southeast, Mid-Atlantic, Mid-West, and Gulf states. If you have questions regarding a specific project or regulatory issue, please contact Ben Salter at (828) 505-0755 or ben.salter@eca-usa.com.

ECA is an environmental, cultural resources, and geotechnical consulting and engineering firm with a 30+ year track record of excellent service to our clients. ECA attributes its success to providing timely and innovative services and solutions with a persistent focus on the objectives of customers.