

MIGRATORY BIRD PROTECTION

Section: 01 41 26.21

PART 1 - GENERAL

1.1 SUMMARY

- A. This specification provides airport board employees, contractors and tenants with information and guidance on protecting avian wildlife that may be encountered during construction projects at Dallas Fort Worth International Airport (DFW Airport). The intent is to comply with the Migratory Bird Treaty Act.
- B. The Contractor shall be responsible for all cost associated with nest surveys, reports, mitigation activities, and training to maintain compliance with this specification.

1.2 RELATED SECTIONS

- A. Section 01 41 26.19, NEPA Requirements
- B. Section 01 57 23, Temporary Storm Water Pollution Control.
- C. Section 01 74 19, Construction Waste Management and Disposal

1.3 REFERENCES

- A. The following is a list of policies and regulations which may be referenced in this Section:
 - 1. Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. §§ 703-712)
 - a. <https://www.fws.gov/laws/lawsdigest/migtrea.html>
 - 2. Endangered Species Act
 - a. <https://www.fws.gov/international/pdf/esa.pdf>
 - 3. Bald & Golden Eagle Protection Act
 - a. https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=9a2c074a271d17db16c4a0fa4ca3d2ba&tpl=/ecfrbrowse/Title50/50cfr22_main_02.tpl
 - 4. DFW Airport Wildlife Hazard Management Plan
 - a. Contact the Wildlife Administrator for the plan.
 - 5. DFW Airport Nest Survey Guidance Map
 - a. <https://www.dfairport.com/sustainability/index.php>

1.4 DEFINITIONS

- A. Active Nest. Nest containing birds and/or eggs.
- B. Inactive Nest. A nest is considered inactive if any one of the following conditions is present:
 - a. The nest is empty containing no birds and/or eggs;
 - b. The nest contains non-viable eggs as determine by a qualified 3rd party;
 - c. This nest is only partially constructed.

MIGRATORY BIRD PROTECTION

Section: 01 41 26.21

- C. Natural Wooded Areas. Areas primarily consisting of natural tree cover, with trees capable of producing timber or other wood products and exerting an influence on the climate or water regime. Refer to the Nest Survey Guidance Map
- D. Nesting Season.
 - a. February 1st to August 31st.
 - b. Year round in natural wooded areas.
- E. Buffer Zone. A 100-foot radius identified by a visual barrier surrounding an active bird nest. No activity shall occur within this area.
- F. Bird. Refers to any species federally protected under the MBTA.
- G. Depredation. Includes agricultural damage, private/public property damage, threats to human health and safety, and threats to recovery of protected wildlife. The nest itself or birds attending to the nest must be contributing to physical damage or physical loss to constitute a depredation problem and must not merely be causing a nuisance.
- H. OAR. Owner's Authorized Representative.

1.5 SUBMITTALS

- A. Nest Survey. A Nest Survey shall encompass all areas within their project site, 100 feet adjacent to their project site, and all areas that will be impacted by their project operations.
 - a. Surveys must be conducted within five (5) days prior to disturbance.
 - b. Survey shall address and contain:
 - i. Dates & Times
 - ii. Maps of project site indicating nests
 - iii. Photos of nests, project site
 - iv. Identified species
 - v. Active vs Inactive
 - vi. Methodology (grid, transects)
 - vii. metadata
 - viii. Qualifications
- B. Self-Certified Nest Survey. A small-scale nest survey that may be conducted by the contractor for a site less than 1 acre and in developed area. This template will provide instruction and methodologies for the completing a nest survey. See Part 2.B.c. - Self Certification Nest Survey.
 - a. Signatory by the Project OAR and individual conducting the nest survey.

MIGRATORY BIRD PROTECTION

Section: 01 41 26.21

- C. Nest Activity Report. Follow up report based on the findings of active nest during a nest survey. Report shall indicate if chicks have fledged, or the eggs were not viable. Report shall address and contain:
 - a. Dates & Times
 - b. Maps of project site with nests
 - c. Photos nest, project site
 - d. Identified species
 - e. Status of Fledgling and eggs
 - f. Methodology (grid, transects)
 - g. metadata
 - h. Qualifications

1.6 QUALITY ASSURANCE

- A. Persons conducting wildlife related survey activities shall be a 3rd party possessing the education, training and experience necessary to recognize avian species, their nest and/or eggs, their respective habitats, and appropriately permitted with Federal, and State agencies for relocation / taking of avian wildlife.
- B. Education. Train all employees, contractors, and/or visitors of this specification to protect avian wildlife.
 - a. Prohibition of disturbing of nests and birds.
 - b. Prohibition of the taking of any birds or their parts.

1.7 SEQUENCING AND SCHEDULING

- A. Nest surveys shall be conducted within five (5) days prior to any vegetation disturbance activities.

1.8 REPORTING

- A. Report any incidental take of a bird or active nest to the OAR within 24 hours.
- B. Report any newly identified nests to the OAR within 24 hours for further evaluation.
- C. Any other wildlife activities that pose a safety hazard should be reported to AOC (Wildlife) for further evaluation.
- D. If activities will extend past the limits of disturbance contact the OAR for direction prior to beginning.

PART 2 - Execution

- 2.1 Nest Survey Requirements. Conduct a Nest Survey prior to any disturbance of vegetation during nesting season (February 1st to August 31st) or year-round in natural wooded areas.

MIGRATORY BIRD PROTECTION

Section: 01 41 26.21

- A. A 3rd Party Nest Survey shall be submitted to the Environmental Affairs Department or Airport Operations for review. In the event a nest is observed refer to section 2.1 Construction Activities with Active Nests.
- B. Self-Certification Nest Survey may be conducted if both the following conditions are met:
 - a. The project's disturbance is less than one acre and;
 - b. The project's area has been previously disturbed and has a maintained landscape. (i.e. lawns, lots, planter beds, and other landscaped areas).
 - i. In the event that nest(s) are observed, a qualified 3rd party nest survey will be required.
 - c. The Self – Certification Nest Survey Template can be found at <https://www.dfwairport.com/sustainability/index.php> or provided by the EAD Design & Construction Group.

2.2 Construction Activities with Active Nests

- A. All active nests identified by a nest survey will establish the buffer zone around the nest to prevent any intrusion or negative impacts to birds.
 - a. No activity shall occur within the buffer zone. In the event the barrier is compromised work operations in the immediate area will be suspended until the barrier is restored.
 - b. Artificial Lighting shall not be directed toward active nests. Contractor shall use down shielding or directional lighting to avoid light trespass into bird habitat.
 - c. Contractors will instruct their staff and sub-contractors to remain outside of the restricted areas and to avoid activities that will disturb the birds.
- B. Active nest(s) shall be monitored periodically by 3rd party until chicks fledge the nest or the eggs are no longer viable. The 3rd party will need to submit a professional Nest Activity Report to the OAR. Once the report is approved the visual barrier can be removed and activities in that area can commence

2.3 Shop Drawings for the Installation of Bird Deterrent Spikes

- A. All bird deterrent spikes installed in any bird deterrent spike project must contain the following:
 - a. Must be all metal
 - b. Must be permanently fastened to the structure using hardware (no glue)
 - c. Shop drawings must be submitted and approved due to a range of its lengths and widths. Designed bird spikes must be made of all metal and affixed (not glued).

PART 3 - PROHIBITED ACTIVITIES

3.1 Wildlife Prevention.

- A. The Contractor, their staff, subcontractors and others having access to the property will be responsible for complying with relevant aspects of DFW Airport's Wildlife

MIGRATORY BIRD PROTECTION

Section: 01 41 26.21

Hazard Management Plan, which prohibits attracting wildlife intentionally or unintentionally.

- a. Contractors shall not allow activities or operations that could attract birds or other wildlife, either intentionally or unintentionally.
- b. Contractors will not allow active or passive feeding of birds or any wildlife. The contractor is responsible for proper trash management.
- c. Contractor utilizing ponds or causing ponding must implement deterrent devices if they begin to attract birds or other wildlife

- END OF SECTION -