

Migratory Bird Treaty Act (MBTA) Incidental Take of Migratory Birds

(for eagles – follow the Bald & Golden Eagle Protection Act)

Is this a Military Readiness Activity? as defined in Pub. L. 107–314, § 315(f), 116 Stat. 2458 (Dec. 2, 2002) [Pub. L. § 319 (c)(1)] Includes all training and operations of the Armed Forces that relate to combat, and the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use.

The actual test or exercise.

YES

NO

Construction & demolition, roads & grounds, operation of utilities, recreation, natural resource management, or any other support function.

**Follow 50 CFR Part 21
Migratory Bird Permits:
Take of Migratory Birds
by the Armed Forces**

**Follow MOU Between
DOD and USFWS to
Promote the
Conservation of
Migratory Birds**

Could the activity have a significant adverse effect on a population of migratory birds?
(surveys may be required to determine this)

NO

Activity is authorized by 50 CFR Part 21. Document rationale for no significant impacts to migratory birds (may be via the NEPA process). Avoidance/minimization measures may still be implemented.

YES

Confer and cooperate with USFWS to develop appropriate and reasonable conservation measures to minimize or mitigate the adverse affects.

Could the activity affect migratory birds?
(surveys may be required to determine this)

YES

NO

Document rationale for no-affect (may be via the NEPA process).

Work with USFWS to avoid/minimize impacts to migratory birds IAW MOU.

~or~

Apply for an incidental take permit from USFWS (not yet available)