



THE MIGRATORY BIRD PROTECTION ACT (H.R. 5552)

The Migratory Bird Protection Act (H.R. 5552) aims to restore longstanding protections to migratory birds that have existed for decades under the century-old Migratory Bird Treaty Act (MBTA). The bill reaffirms the MBTA's intent to protect birds from unintentional harm by industrial activities and creates the framework for a permitting program to help responsible developers manage incidental take of birds. This important and reasonable approach provides regulatory certainty to industry while advancing bird conservation and upholding our international treaty commitments.

Migratory birds are in trouble.

Bird populations in North America are facing devastating declines. According to a study published in *Science*, a stunning 3 billion birds have disappeared from the continent since 1970.¹

Climate change, habitat destruction, collisions with windows, pollution, oil spills and more are pushing bird species toward extinction. Moreover, millions of birds are killed each year due to commercial activities.

- Collisions with **power lines** account for up to 64 million bird deaths each year.
- **Communications towers** in the U.S. and Canada kill an estimated 7 million birds each year.
- Uncovered **oil waste pits** account for up to another 500,000 to 1 million bird deaths each year.

The MBTA has been a vital tool for bird conservation.

For decades, the MBTA has not only protected birds from intentional harm, but also from unintentional but predictable deaths from industrial activities. This policy incentivized industries to develop best management practices to minimize bird deaths, while companies that did not adopt these common-sense measures could then be held liable under the law.

For example, after over a million birds were killed in the Deepwater Horizon oil spill, BP was assessed a \$100 million fine that was then used to restore important bird habitat. Every Republican and Democratic administration since the 1970s has applied the MBTA in such a manner, which has saved countless numbers of songbirds, raptors, and waterfowl.



¹ Rosenberg, K. V. et al. 2019. Decline of the North American Avifauna. *Science* 365(6461). doi: 10.1126/science.aaw1313

A new policy has undermined the MBTA.

In December 2017, the Department of the Interior abruptly reversed decades of management and enforcement policy by reinterpreting the MBTA, claiming that it did not apply to industrial activities that kill birds. A legal opinion issued by the Solicitor for the Department of the Interior declared that the law now only covers activities that kill birds on purpose, exempting all incidental take by industry from enforcement.



In January 2020, the administration proposed a new regulation that seeks to codify this controversial policy change, permanently weakening the ability of the MBTA to protect our nation's bird populations.



H.R. 5552 restores decades of bipartisan conservation. If enacted, this bill would:

- Restore the status quo by reaffirming the MBTA's intent to protect migratory birds from industrial activities.
- Provide greater regulatory certainty to industry by establishing a permitting program for incidental take, where permits would be based on best management practices that minimize harm to birds.
- Provide additional resources for bird conservation by establishing a fee dedicated to mitigation and conservation efforts, and a research program to better understand industrial impacts to birds.

Defenders of Wildlife strongly urges Congress to support H.R. 5552 to ensure the MBTA and the birds it protects are safeguarded for decades to come.