



# Migratory Bird Treaty Act Reporter Resources

Despite nearly [200,000 public comments](#) defending the Migratory Bird Treaty Act (MBTA), the Trump administration is pushing forward with [its plan to cement into law](#) a hotly disputed proposal to strip protections from migratory birds from harms caused by industrial activities, dramatically undercutting the law's ability to conserve birds. Only weeks after the nation commemorated the 10th anniversary of [the Deepwater Horizon oil spill](#), which took the lives of over 1 million birds, the U.S. Fish and Wildlife Service today released a draft environmental impact statement supporting its proposal to immunize the oil and gas industry and other industries from responsibility for such losses.

## Migratory Bird Treaty Act History

The [Migratory Bird Treaty Act](#), a landmark law that protects and helped to restore populations of many bird species, turned 100 in 2018. The law has been applied for decades by federal agencies and the courts to protect birds not just from unauthorized hunting but also from being harmed or killed by industrial operations. Migratory birds are increasingly threatened by land development, habitat loss and the effects of climate change.

In 2017, however, the Department of the Interior issued a legal opinion reversing the longstanding interpretation of the Migratory Bird Treaty Act as applying to incidental take by industrial activities, holding that the law can only be used to protect against illegal hunting. The validity of the Interior Department's legal opinion, which ended enforcement of the Act against oil spills and other industrial actions that kill birds, is being challenged in federal court by conservation groups and states.

## An Outpouring of Opposition

In February, 10 prominent retired [public affairs, communications and outreach professionals](#) criticized their former agency, the U.S. Fish and Wildlife Service (FWS), for violating press relations norms and fairness policies in [a complaint to the Inspector General](#). The public affairs, communications and outreach professionals noted that the agency's press release included 28 favorable statements from industry organizations and others. The complaint called the release "bizarre and unacceptable" and went on to highlight the unprecedented nature of the release, stating, "None of us ever issued a news release on a proposed regulation containing prejudicial statements from interest groups on one side of a policy debate, nor would we have permitted such a news release to be issued."

Additionally, a bipartisan coalition of 15 former Department of the Interior officials – including former FWS director and current Defenders CEO and President, Jamie Rappaport Clark – [sent a letter](#) to Interior Secretary



Bernhardt condemning the proposal to further weaken the Migratory Bird Treaty Act by ending all enforcement against unintentional but predictable killing of migratory birds by commercial activities.

Newspapers such as the [Chicago Tribune](#) and [Virginia Pilot](#), editorialized on the benefits of the Migratory Bird Treaty Act and criticized the Trump administration for failing to protect migratory birds. Outlets like the [New York Times](#), [Associated Press](#) and [Reveal](#) reported on how the relaxation of these rules impacts birds at the local level.

Early this year, [Rep. Alan Lowenthal \(D-Calif.\)](#) and a group of 18 bipartisan original co-sponsors introduced the [Migratory Bird Protection Act \(H.R. 5552\)](#) to reverse the administration's reinterpretation of the law and reaffirm its intent to protect migratory birds from industrial activities. This bill passed out of committee on January 15.

While most of the country is rightly focused on a pandemic sweeping the globe, the Trump administration has used the COVID-19 outbreak as a screen to push forward a callous regulation to strip protections for migratory birds from industrial activities. With a stunning 3 billion birds lost since the 1970s, the Trump administration is leaving the fate of more than a 1,000 bird species in the hands of the oil and gas industry and other industries that harm birds on a daily basis.