

Migratory Bird Treaty Act: Strengthening Legislation Introduced



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Congressman Alan Lowenthal (CA-47) and Congressman Brian Fitzpatrick (PA-01) recently introduced the Migratory Bird Protection Act (“Proposed Act”).

The two sponsors and various allied supporters state that the legislation would permanently codify and strengthen the Migratory Bird Treaty Act (“MBTA”).

The MBTA was enacted in 1918 and implements four international conservation treaties that the United States has entered into with:

- Canada in 1916
- Mexico in 1936
- Japan in 1972
- Russia in 1976

The original purpose of the MBTA was to ensure the sustainability of populations of all protected migratory bird species. It prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the United States Department of Interior Fish and Wildlife Service (“Service”).

The list of migratory bird species protected by the MBTA is primarily based on bird families and species that are included in the four international treaties. The list is found in the Code of Federal Regulations at Title 50, Part 10.13.

A migratory bird species is included on the list if it meets one or more of the following criteria:

- Occurs in the United States or its territories as a result of natural biological or ecological processes, or was previously listed as a species or part of a family protected by one of the four international treaties or their amendments
- Revised taxonomy results in it being newly split from a species that was previously on the list, and the new species occurs in the United States or its territories as a result of natural biological or ecological processes
- New evidence exists for its natural occurrence in the United States for its territories resulting from natural distributional changes in the species occurs in a protected family

Only “native” migratory bird species are subject to the MBTA’s protections. There are approximately 1,026 species covered by the MBTA.

The Proposed Act would require the Service to develop a permitting process for “incidental take” through which relevant businesses would implement best management practices and document compliance. It would also establish a new fee that is intended to increase funding for the conservation of birds impacted

by industrial hazards. Further, an additional fund would be established for a federal research program that will study industry impacts on birds and best management practices.

A copy of the Proposed Act can be downloaded [here](#).