

# Biden administration must act fast to save migratory birds

January 21 2021, by Kelcie Walther

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An oil-soaked pelican is treated after the Deepwater Horizon oil spill. Credit: [International Bird Rescue Research Center](#)

On January 5, 2021, the day before the world watched in horror as the U.S. Capitol was assaulted, the Trump administration laid siege to the

Migratory Bird Treaty Act. The revision is a major blow to conservation efforts, lifting penalties for industries that accidentally cause harm to birds protected under the act.

The [Migratory Bird Treaty Act](#), which was enacted in 1918, originally sought to protect [migratory birds](#) from being hunted. At the time, feathers were a major fashion commodity, and bird populations were being decimated. In addition to protecting [birds](#) from intentional slaughter, it also protected its listed species from being killed by "incidental take"—the unintentional loss of birds as a consequence of an otherwise legal activity. In the century since its inception, [human activity](#) has led to many potential hazards for birds.

"Many industrial activities can result in incidental take," said Felicity Arengo, the associate director of the Center for Biodiversity and Conservation at the American Museum of Natural History, in an interview with GlacierHub. "Wind turbines, construction of pipelines and shipping channels... even beach cleaning (which destroys the nests of ground-nesting shorebirds)."

For years the Migratory Bird Treaty Act has been used to hold oil and power companies accountable for such unintentional deaths. The act laid the groundwork for the \$100 billion settlement that British Petroleum paid after the Deepwater Horizon spill in 2010, which killed an estimated [1 million birds](#). Because of this recent change, the act no longer provides a means through which to fine companies that damage bird populations.

The changes, which have been described as Trump's "[parting gift](#)" to the oil industry, were initiated by the Trump Administration in 2017. Now they have been finalized, despite having been [struck down](#) by a federal district court in Southern New York in August 2020. "It is deeply alarming that the Trump administration decided to ignore the courts,"

said the Audubon Society's policy manager, Erik Schneider, in an interview with GlacierHub. "It is really a jaw-dropping abdication of responsibility by the Interior Department under the Trump administration."

The timing of the evisceration of the Migratory Bird Treaty Act couldn't be worse. A report in *Science* published last year showed that almost 3 billion breeding birds have disappeared from North America since 1970. That's a population loss of 29% in the last 50 years. Today, [climate change](#) is posing an [unprecedented risk](#) to bird numbers and it is estimated that if we maintain our current warming trajectory, more than [65% of North](#) America's bird species will be at risk of extinction by 2100. Many of the protected birds, like the osprey, snowy owl, Arctic tern and peregrine falcon, breed in glaciated areas or along rivers fed by glacial meltwater, and are already reeling from habitat loss.

"We need to be doing much more to protect and conserve birds," said Schneider. "Maintaining protections that have been in place for decades is only the minimum if we're going to recover populations, so it's critical that these protections are restored."

The Migratory Bird Treaty Act protects more than 1,000 species of birds across the United States, Canada, Japan, Russia and Mexico. The species protected include beloved birds such as the Atlantic puffin, American flamingo, bald eagle and Arctic loon. This law isn't the only bird protection that the Trump administration has tampered with, though. Just this week, the administration [cut protected habitat](#) for the soon-to-be-endangered northern spotted owl by millions of acres, including forested areas near glacier peaks in Washington (Mt Baker, Mt. Adams, Mt. Rainier), Oregon (Mt. Hood) and California (Mt. Shasta). This loss is a major setback for a bird whose population is dwindling.

There's still time to preserve this landmark conservation act. The

changes made don't go into effect for 30 days, meaning that if the incoming Biden administration acts quickly they could overturn the changes before they are finalized. "I hope the Biden administration takes swift action to restore the [Migratory Bird Treaty Act] and reinstate bird protections," said Schneider. "In doing so, the Interior Department can ensure that it carries out its core obligations, and regain a critical tool to help meet its biodiversity goals."

Time is ticking for the Migratory Bird Treaty Act. In the meantime, the birds around us hang in the balance.

"It is a great joy to see a bird like the golden-winged warbler on a beautiful morning during spring migration," said Schneider. "It is disheartening that this species is one that has declined dramatically in recent decades. However, I'm confident that these protections will be restored, and we will help ensure that our [bird populations](#) continue to provide joy, inspiration, and more, for the next generations."

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