



McHenry County Audubon - a chapter of Illinois Audubon Society
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Public Comments Processing
ATTN: FWS-HQ-MB-2018-0090
U.S. Fish and Wildlife Service
MS: JAO/3W
5275 Leesburg Pike
Falls Church, VA 22041-3803

U.S. Fish and Wildlife Service
Re: Regulations Regarding Take of Migratory Birds

McHenry County Audubon, a chapter of Illinois Audubon Society, and our members, welcome this opportunity to comment on regulations regarding the take of migratory birds. McHenry County Audubon (MCA) was established primarily to promote the conservation and awareness of native birds in our county but by the very definition of “migratory” we support the conservation of birds throughout the United States and beyond.

Populations of birds, especially neotropical migrants, continue to decline dramatically. Much of the declines are due to loss of appropriate nesting habitat and/or habitat required during migration or on wintering grounds. But human impacts go beyond those related directly to habitat loss on the landscape scale and are in large part, through best practices, avoidable. The Migratory Bird Treaty Act (MBTA) has been a very useful tool in conserving bird populations, and specifically in regulating the killing of migratory birds. Traditionally, the MBTA has been interpreted through the lens of strict liability, which makes the unauthorized killing or taking of migratory birds an illegal action, regardless of intent. However, the final rule pertaining to the MBTA published on January 7, 2021 by the U.S. Fish and Wildlife Service, limited its scope to exclude the incidental take of migratory birds. This provision significantly weakened the scope and intent of the MBTA.

McHenry County Audubon concurs with many of the findings of the ***“Final Environmental Impact Statement – Regulations Governing Take of Migratory Birds”*** published by the U.S. Fish and Wildlife Service. That document, in Table S-1 “Summary of Effects of Alternatives,” states

that the final rule excluding incidental take of migratory birds would negatively impact migratory birds, negatively impact other biological resources, and reduce ecosystem services. In addition, excluding the incidental take of migratory birds would also likely decrease implementation of best practices to reduce these types of losses and decrease industry standards, all of which are designed and/or currently required to prevent the incidental take of migratory birds.

The mission of McHenry County Audubon reads in part: “The purpose of this Chapter shall be to promote appreciation and increase knowledge of wild birdlife and the environment that supports it, and to further the conservation of natural resources...” Migratory birds represent a significant, highly visible, and ecologically important component of our environment and of our natural resources we as a nation so treasure.

In closing, McHenry County Audubon respectfully requests that the recent Rule promulgated by the U.S. Fish and Wildlife Service pertaining to the exclusion of “incidental take” of migratory birds be rescinded. We further recommend that the MBTA continue to be interpreted through the lens of strict liability, which makes unauthorized killing or taking of migratory birds an illegal action. Finally, MCA does support promulgation of regulations (as stipulated in the Final EIS) to define the MBTA to include incidental take.

McHenry County Audubon and its members do very much appreciate this opportunity to comment on provisions of the MBTA and its importance in conserving migratory birds.

Sincerely,

Stacy L. Iwanicki, President
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