



MIGRATORY BIRD TREATY ACT

What is the Migratory Bird Treaty Act?

A Federal Act passed in 1918 to combat over hunting and poaching that supplied the enormous demand for feathers to adorn women's hats. State level hunting laws were not working and bird populations were being decimated. This Act was a result of a treaty between the United States and Great Britain (on behalf of Canada), to protect migratory birds. The Treaty has been amended numerous times over the years to strengthen the protective provisions and Japan, Russia, and Mexico are now Treaty signatures.

What does the Act provide?

The Act (and subsequent law) makes it a federal crime to “take” birds or bird parts, including feathers, or to kill birds without permission from the Secretary of Interior.

What are the penalties for violations of the Act?

Violations of the Act can be criminal or civil. Criminal violations are classed as misdemeanors and carry a penalty of a maximum of \$15,000 or imprisonment up to 6 months or both. Civil penalties are determined by the court. The Act also allows seizure of all guns, traps, nets and equipment, vessels and vehicles used in the violation

What is a migratory bird?

Any bird occurring in the United States that is considered migratory, i.e., moves around to multiple locations during the day, month and year (usually more pronounced with the seasons). However, many birds protected under the Act are not in fact truly migratory. An example might be a neighborhood mocking bird. Species that are not protected as migratory birds include non-native house sparrows, and European starlings. Native, wild turkeys are not considered migratory birds. Furthermore, some migratory birds like mourning doves and ducks are not protected year-around in most states as there is an exception for seasonal hunting.

What is TxDOT's role in protecting migratory birds?

All TxDOT activities are subject to the Migratory Bird Treaty Act. This means that any action taken by TxDOT must protect migratory birds from being harmed or taken. Typical TxDOT actions that have potential to take migratory birds include, but are not limited to, road construction and maintenance.

What are the TxDOT projects that have the most potential to harm migratory birds?

The vast majority of roadway construction and maintenance projects (including culverts and bridges). Fortunately, this potential for harm is limited to the migratory bird nesting season (February 15 through October 1) and in most cases, the District Environmental Section can assist the project manager (PM) in avoiding harm to migratory birds.

How can TxDOT avoid harming migratory birds and violations of the Migratory Bird Treaty Act?

Most, if not all, of the migratory bird issues on projects can be avoided through effective planning and timely communication with the District Environmental Section. Planning project Lettings (actual construction timeframes) outside of migratory bird nesting season will alleviate most issues related to migratory birds related to the project. If the project must occur during the migratory bird nesting season, coordinate early and often with the Environmental Section to schedule one or more migratory bird nesting surveys prior to commencing work. A member(s) of the Environmental Section will work with the PM to survey areas related to the project. Bird nesting surveys are designed to identify and protect nesting migratory birds while allowing construction and maintenance work to continue to the fullest extent possible. If a nest is found, a recommended buffer of vegetation (typically ≥ 50 ft.) should remain around the nest until the young have fledged. Bird nesting surveys allow work for a period of 14-days (only). A migratory bird nesting survey report will be sent to the PM specifying where nesting birds are found and instructions on how to avoid harm, while continuing construction activities (usually). After the 14-day nesting survey period expires, the PM should re-contact the Environmental Section if additional construction is required within the pre-surveyed area or on additional areas where clearing is required.

Who should I contact in the Environmental Section to determine if migratory birds may be an issue on the project?

Contact Edd Paradise in the District Environmental Section at 956-702-6243 or Edward.Paradise@txdot.gov.



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