

The Migratory Bird Treaty Act and What it Means for Zoos

Jo Anna Lutmerding
Wildlife Biologist

Branch of Conservation, Permits, and Regulations
Division of Migratory Bird Management

Jo_Lutmerding@fws.gov

speaker notes in italics

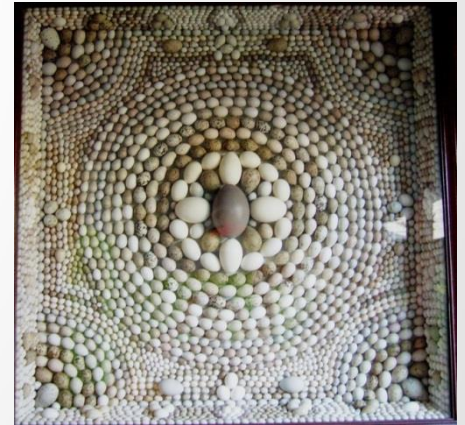


U.S. Fish and Wildlife Service
Migratory Bird Program
Conserving America's Birds



Migratory Bird Treaty Act (MBTA)

- Why created?
 - Bird populations being decimated by overharvest:
 - Fashion
 - Hunters
 - Scientists and Collectors





Migratory Bird Treaty Act (MBTA)

- Enacted in 1918 to implement international treaty with Canada
 - Treaties with Mexico, Japan and Russia came later
- Regulates the take of migratory birds:
 - A species that is a member of a family of birds listed under the Migratory Bird Treaties
 - List of protected species is in 50 CFR 10.13 List of Migratory Birds (last updated Nov 2013, in progress of updating)





Migratory Bird Treaty Act (MBTA)

- Prohibits:
 - to "**pursue, hunt, take, capture, kill**, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, **any migratory bird, included in the terms of this Convention . . .** for the protection of migratory birds . . . **or any part, nest, or egg of any such bird.**" (16 U.S.C. 703)



MBTA – M-Opinion 37050

DOI Releases New Interpretation of MBTA

- M-Opinion (M-37050) was released on December 22, 2017 analyzes whether the MBTA prohibits the accidental or “incidental” taking or killing of migratory birds
- The Opinion concludes that the incidental take of migratory birds (i.e., the unintentional take of birds as a result of an activity but not the purpose of the activity) is not an enforceable action under MBTA
- Therefore, the MBTA does not prohibit incidental take of birds or eggs
- The FWS is working to receive additional input and guidance to incorporate the new M-Opinion into our day-to-day activities – This will be distributed to field offices
- Both the Endangered Species Act and the Bald and Golden Eagle Protection Act as well as applicable state laws and regulations still apply to certain migratory bird species



Does the M opinion affect your work?

- Does not change Service policy related to purposeful take, possession or transport.
- Are reviewing policies to promote consistency with permitting and the M-opinion



How are migratory birds regulated?

U.S. Fish & Wildlife Service (as mandated by Congress)

- Develop Regulations
 - MBTA
 - Eagle Act
- Implement Regulations
 - Over 60 permit types
- Headquarters
 - National Policy & Coordination
 - National coordinator is retiring but role still supported during transition
- Regions
 - Issue Permits & Technical Assistance



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1. **HQ does not issue permits – we do not supervise – issue policy – permits issued at regional level. -*
2. *Our oversight of migratory birds and permitting that we administer are mandated by congress.*
3. *USFWS develops regulations for the Migratory Bird Treaty Act (acronym check) and the Bald and Golden Eagle Protection Act (acronym check)*
4. *USFWS also implements the regulations: we currently have over 60 permit types for a wide range of activities including:*
 1. *Scientific research and education to wildlife damage and conflict to rehabilitation and captive propagation to falconry-related and Native American religious use to the great catch-all, Special Purpose*
 2. *The permit process helps balance migratory bird conservation with commercial and scientific activities.*
5. *Headquarters – develops regulations and policy as well as national coordination to aid consistency*
6. *The Regions – issue permits and provide technical assistance for case-by-case issues*



How to get help

Region	Area	Email	Phone
1 - Pacific	HI, ID, OR, WA	PermitsR1MB@fws.gov	(503) 872-2715
2 - Southwest	AZ, NM, OK, TX	PermitsR2MB@fws.gov	(505) 248-7882
3 - Midwest	IA, IL, IN, MN, MO, MI, OH, WI	PermitsR3MB@fws.gov	(612) 713-5436
4 - Southeast	AL, AR, FL, GA, KY, LA, MI, NC, SC, TN, VI, PR	PermitsR4MB@fws.gov	(404) 679-7070
5 - Northeast	CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VA, VT, WV	PermitsR5MB@fws.gov	(413) 253-8643
6 - West	CO, KA, MT, ND, NE, SD, UT, WY	PermitsR6MB@fws.gov	(303) 236-8171
7 - Alaska	AK	PermitsR7MB@fws.gov	(907) 786-3693
8 – Cali/NV	CA, NV	PermitsR8MB@fws.gov	(916) 978-6183

If they say regional person not helpful – if not getting anywhere – can call HQ but we're going to wind up working with the regions too. We don't make decisions.

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The AZA and permit exemptions

- Title 50 Code of Federal Regulations, §21.12(b)
General exceptions to permit requirements:
- **Who:** State game departments, municipal game farms or parks, and public museums, public zoological parks, **accredited institutional members of the American Association of Zoological Parks and Aquariums (AAZPA)** and public scientific or educational institutions



The AZA and permit exemptions

- **What:** may acquire by gift or purchase, possess, transport, and by gift or sale dispose of lawfully acquired migratory birds or their progeny, parts, nests, or eggs without a permit



The AZA and permit exemptions

- **Requirements to keep accurate records:**
 - species and number of birds acquired, possessed, and disposed of
 - the names and addresses of the persons from whom such birds were acquired or to whom such birds were donated or sold
 - dates of such transactions.
 - Maintain records on a calendar year basis and retained for a period of five (5) years
- No prior approval is necessary to acquire birds from other AZA or Exempt facilities



- *For the exemption - offspring are kept under the exemption and can be donated or sold to other exempt facilities. They cannot go to permitted entities. They would just add a line to document in their internal records to indicate offspring and their disposition (retained, donated, etc.)*
- *Permitted facilities: raptor propagation, game bird propagation, and waterfowl sale are governed by their respective permits and exemptions. Birds propagated under a permit can be sold/donated to other permitted facilities or to exempt facilities.*
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- *Propagation is prohibited under education and eagle exhibition permits. Any accidental propagation should be reported to the permit office immediately to determine the best course of action.*



When you still need a permit or other approval

- AZA exemption does not cover:
 - Salvage: can apply for a salvage permit
 - Scientific collecting: can apply for permit
 - Acquiring from a permitted facility: contact your regional office
 - Acquiring or possessing live or dead Eagles (or parts): permit required
 - If a bird is held under an education permit: individual birds cannot be held under both exemption and permit
- It is the responsibility of the applicant to determine if other State/County/Local or other approval is needed



International Movement

- Non-CITES Bird
 - Migratory Bird Import/Export Permit
- CITES Bird
 - Import/Export Permit Administered by USFWS - Division of Management Authority (DMA)
Phone: 1-800-358-2104
Email: managementauthority@fws.gov
Website: <http://www.fws.gov/international/permits/>
- Eagles = Round-trip Only!
 - International Transport
 - Administered by DMA



Tammie S. Rohr 2011



Waterfowl Sale & Disposal

Very common permits

- Captive-Reared Mallards (50 CFR 21.13)
 - May be acquired, possessed, and sold without a permit
- Other Waterfowl (50 CFR 21.14)
 - May be acquired and possessed without a permit
 - Must possess a permit to transfer or dispose of
- Waterfowl Sale & Disposal Permit Authorizes the disposal of captive-reared waterfowl
 - Disposal = donation, sale, release to wild, consume ...





Other sources of birds

- Regional offices can provide assistance and proper application process to acquire from:
 - Rehabilitation
 - Eagles! We have Eagles that need homes! I can provide you info.
 - Captive Propagation (waterfowl, raptors, & game birds)
 - Depredation (Conflict birds)
 - Scientific Collection (Research birds)



Looking to the future

- We are working on updating regulations for clarity and consistency – we welcome input
 - Any proposed changes will also be available for comment in the Federal Register
- AZA will remain exempt



Questions?



Green Herons on a branch; Roy W. Lowe, USFWS Pacific Region

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