



# United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington, D.C. 20240

IN REPLY REFER TO:

DIRECTOR'S ORDER NO. 172

Subject: Responsibilities of Federal Agencies to Protect Migratory Birds in Accordance with Executive Order 13186

**Sec. 1 What is the purpose of this Order?** This Order, developed in accordance with Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds) provides guidance for Service programs relative to the management and conservation of migratory birds. Its purpose is to minimize the potential adverse effects of migratory bird take, with the goal of striving to eliminate take, while implementing our mission.

**Sec. 2 To whom does this Order apply?** This Order applies Servicewide. We have responsibility to administer, oversee, and enforce the conservation provisions of the Migratory Bird Treaty Act (MBTA), which includes responsibility for population management (e.g., monitoring), habitat protection (e.g., acquisition, enhancement, and modification), international coordination, and regulations development and enforcement.

**Sec. 3 What authorities govern migratory birds?**

- a. Migratory Bird Treaty Act, 16 U.S.C. 703-712.
- b. Bald and Golden Eagle Protection Act, 16 U.S.C. 668.
- c. Ramsar Convention.
- d. Migratory Bird Treaties with Canada (39 Stat.1702; TS 628, as amended), Mexico (50 Stat. 1311; TS912, as amended), Soviet Union (T.I.A.S. 9073), and Japan (25 UST 3329; T.I.A.S 7990, as amended).
- e. Pan American Convention.
- f. Fish and Wildlife Coordination Act (16 U.S.C. 661-667).
- g. Migratory Bird Conservation Act (16 U.S.C. 715-715d, 715e, 715f-715r).
- h. Executive Order 13186 (66 FR 3853).
- i. National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347).
- j. Fish and Wildlife Conservation Act (16 U.S.C. 2901-2911).
- k. Endangered Species Act of 1973 (16 U.S.C. 1531-1544).
- l. Magnuson-Stevens Fishery and Conservation Act.

**Sec. 4 What definitions do I need to know?** See Exhibit 1 for the definitions of some terms that apply to migratory bird management.

**Sec. 5 How does Executive Order 13186 apply to the Service?** On January 10, 2001, the President signed Executive Order 13186 directing Federal agencies whose actions have a measurable negative impact on migratory bird populations to develop Memoranda of Understanding (MOU) with the Service to promote conservation of migratory birds. In addition, the Executive Order calls on Federal agencies to take reasonable steps that include restoring and enhancing habitat, incorporating migratory bird conservation into planning processes, promoting research and information exchange, providing training and visitor education, and developing partnerships beyond agency boundaries. This Order directs how the Service will implement the Executive Order with respect to its own programs. We will implement this Order when new actions or renewal of contracts, permits, delegations, or other third party agreements are initiated as well as during the initiation of new, or revisions to, Service land management plans. The Service will participate in the Council for the Conservation of Migratory Birds established in accordance with the Executive Order.

**Sec. 6 What responsibilities does the Service have for migratory bird management?** In accordance with Executive Order 13186, we have the following responsibilities. Coordinate efforts, as appropriate, through the Division of Migratory Bird Management or the Regional and California/Nevada Operations Office (CNO) Migratory Bird Program.

a. Support the conservation intent of the migratory bird conventions by integrating migratory bird conservation measures into our activities and by avoiding or minimizing adverse impacts on migratory bird resources.

b. Restore and enhance the habitat of migratory birds.

c. Prevent or abate the pollution or detrimental alteration of the environment for the benefit of migratory birds within the scope of our statutory authorities.

d. Within established authorities and in conjunction with the adoption, amendment, and revision of Service management plans and guidance, ensure that our plans and actions promote programs and recommendations of comprehensive migratory bird planning efforts. Examples include: Partners in Flight Bird Conservation Plans, the U.S. Shorebird Conservation Plan, the North American Waterfowl Management Plan, and the North American Waterbird Conservation Plan. These bird plans and other bird conservation planning efforts will be integrated through the North American Bird Conservation Initiative.

e. Ensure that environmental analyses of Federal actions evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern.

f. Control, within the scope of our statutory authorities, the import, export, and establishment in the wild of live non-native animals and plants that may be harmful to migratory bird resources.

g. Promote interagency inventory, monitoring, management studies, research, and information exchange related to the conservation of migratory birds and their habitats. This may include: (1) using national inventory and monitoring programs with standardized protocols to assess the status and trends of bird populations and habitats; (2) implementing management studies and research using national protocols and programs, such as Breeding Biology Research and Monitoring Database (BBIRD); and (3) sharing inventory, monitoring, research, and study data for breeding, migrating, and wintering populations and habitats, such as Monitoring Avian Productivity and Survivorship (MAPS).

h. Promote education and outreach opportunities related to migratory birds, such as International Migratory Bird Day, Urban Conservation Treaties, and the Shorebird Sister Schools Program.

i. Develop and provide training on migratory bird conservation to appropriate Service and other Federal agency employees.

j. Provide technical assistance on migratory bird species and their habitats to other Federal agencies.

k. In conjunction with other Federal agencies, work to develop reasonable and effective conservation measures for key management actions that affect migratory birds and their natural habitats, with emphasis on species of concern.

l. Work to identify special migratory bird habitats (migration corridors, stop-over habitats, ecological conditions important in nesting habitats, etc.) to aid in collaborative planning.

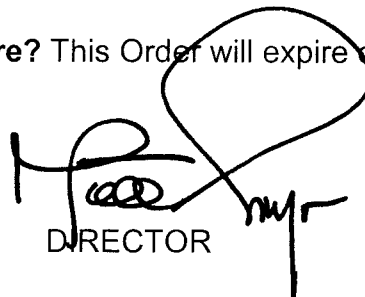
m. Promote migratory bird conservation in international activities and with other countries and international partners, in consultation with the Department of State, as appropriate.

n. Strengthen partnerships with non-Federal entities to further bird conservation.

**Sec. 7 How will the Service manage migratory bird activities?** Many Service programs are actively involved in bird conservation activities (see <http://birds.fws.gov/Laws.htm>). Our objective for migratory bird management and conservation is to minimize the potential adverse effects of migratory bird take, with the goal of striving to eliminate take, while implementing our mission. All Service programs strive to take an ecosystem approach to protection and restoration of species and their associated habitats. As migratory birds is one of our trust resources, all programs must emphasize an interdisciplinary, collaborative approach to migratory bird conservation in cooperation with other Service programs, in addition to other governments, State and Federal agencies, and non-Federal partners. However, we recognize that direct or indirect actions taken by Service employees in the execution of their duties and activities as authorized by Congress may result in the take of migratory birds. In many instances, short-term negative impacts on migratory birds are balanced by long-term benefits. We will incorporate ecosystem integrity, reduction of invasive species, and long-term adaptive management in migratory bird management, using the best available scientific information. Exhibit 2 is a guideline for each Service program to implement. However, as our activities are limited by available resources, we will focus on species of concern (see definition in Exhibit 1).

**Sec. 8 What is the effective date of this Order?** This Order is effective immediately. We will incorporate the contents of this Order in the Fish and Wildlife Service Manual.

**Sec. 9 When does this Order expire?** This Order will expire on June 30, 2005, unless amended, superseded, or revoked.



DIRECTOR

Date: June 9, 2004