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California Land Use & Development Law Report

Fish and Wildlife Service Launches Regulatory Initiative on Migratory Bird Incidental Take

For the first time since the Migratory Bird Treaty Act was enacted in 1918, the federal government is proposing a permit system to authorize the incidental take of the more than 1,000 species of migratory birds.

- The Migratory Bird Treaty Act is strict liability criminal law, and it has been the subject of several recent high-profile enforcement actions against energy project developers.
- The notice describes a three-tier system for incidental take authorizations—MOUs for federal agencies, general permits for specified industry sectors and individual permits for all other projects.

The new permit system is likely to have significant effects on projects that regularly impact migratory birds.

[Read our full Update here.](#)

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