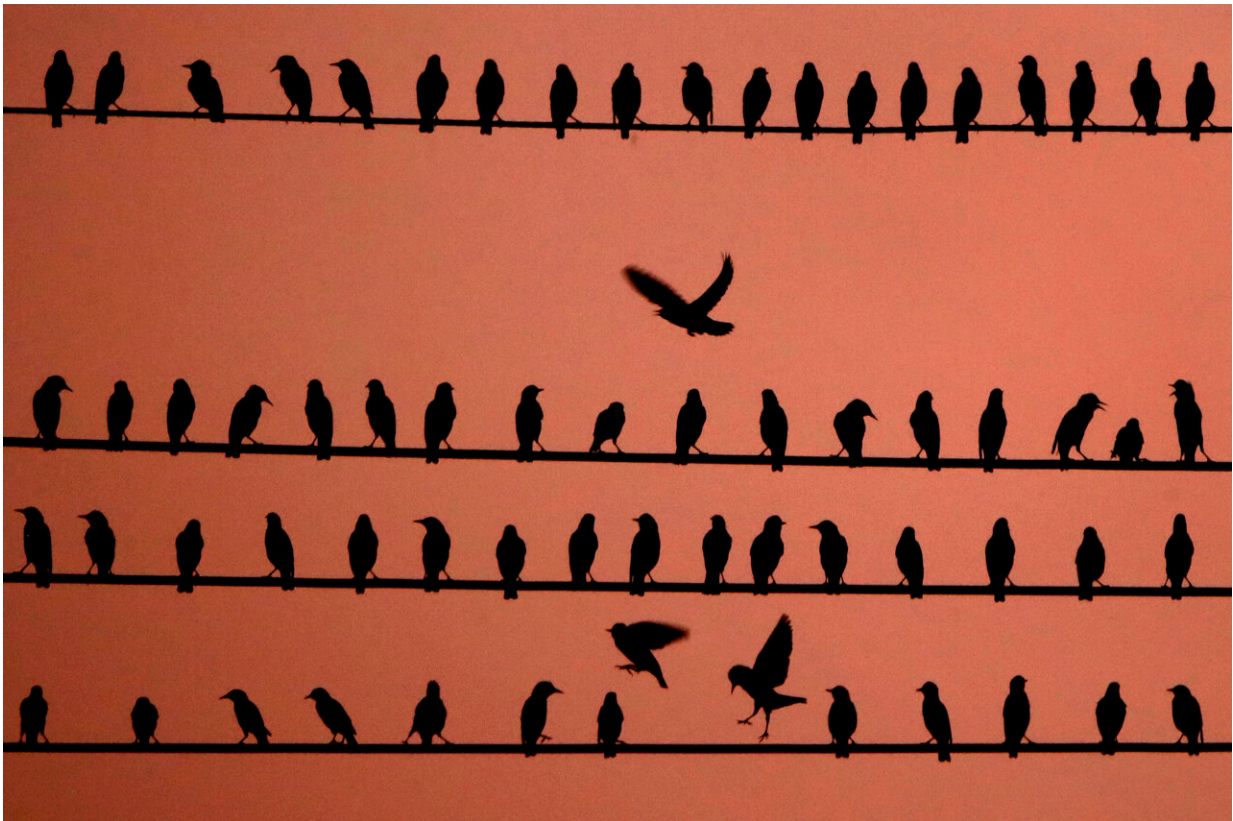


US proposes ending rule that weakened wild bird protections

May 6 2021, by Matthew Brown



In this Sept. 24, 2017, file photo, birds vie for position on power lines at dusk in Kansas City, Kan. The Biden administration is proposing to revoke a rule imposed under former President Donald Trump that weakened the government's power to enforce a century-old law that protects most U.S. bird species. (AP Photo/Charlie Riedel, File)

Longstanding protections for wild birds would be restored under a proposal unveiled Thursday to bring back prosecutions of avian deaths by industry that were ended under former President Donald Trump.

The Interior Department announcement came as President Joe Biden has sought to dismantle a Trump policy that ended criminal enforcement against companies over bird deaths that could have been prevented.

Hundreds of millions of birds die annually in collisions with electrical lines and wind turbines, after landing in oil pits and from other industrial causes, according to government officials and researchers.

The Biden administration in March issued a legal opinion citing court rulings that said the 102-year-old Migratory Bird Treaty Act was "unambiguous" that killing protected birds was unlawful "at any time or in any manner."

Thursday's proposal would cancel a rule enacted in Trump's final days in office that blocked prosecutions of unintentional bird deaths. Interior officials said they will take public comment through June 7 before making a final decision.

Authorities will not be able to enforce the bird treaty in cases of accidental bird deaths until the rule is formally revoked, U.S. Fish and Wildlife Service spokesperson Vanessa Kauffman said.

The prohibition against accidental bird deaths was used most notably in a \$100 million settlement by energy company BP, after government investigators concluded the 2010 Gulf of Mexico oil spill killed about 100,000 birds.

The migratory bird policy was among dozens of Trump-era environmental actions Biden ordered reconsidered on his first day in

office. Former federal officials, environmental groups and Democrats in Congress said many of the Trump rules were aimed at benefiting private industry at the expense of conservation.

Thursday's action was hailed by environmental groups that warned more birds would die under the Trump rule. Interior

Secretary Deb Haaland said it would help ensure agency decisions are guided by science. "The Migratory Bird Treaty Act is a bedrock environmental law that is critical to protecting migratory birds and restoring declining bird populations," Haaland said in a statement.

Industry groups that supported the Trump policy had expressed a willingness to work with President Joe Biden on the issue when he first took office.



In this June 26, 2010 file photo, Plaquemines Parish Coastal Zone Director P.J. Hahn rescues a heavily oiled bird from the waters of Barataria Bay, La.. The Biden administration is proposing to revoke a rule imposed under former President Donald Trump that weakened the government's power to enforce a century-old law that protects most U.S. bird species (AP Photo/Gerald Herbert, File)

But the Independent Petroleum Association of America, which represents oil and natural gas producers, condemned the proposed rule cancellation and said it would cause financial harm to companies that kill birds accidentally.

"This is not a case of punishing 'bad actors,' but rather a situation where companies are set up for failure," said Mallori Miller, vice president for government relations at the association.

More than 1,000 North American bird species are covered by the treaty—from fast-flying peregrine falcon to tiny songbirds and more than 20 owl species. Non-native species and some game birds, like wild turkeys, are not on the list.

Former federal officials and some scientists had said billions more birds could have died in coming decades under Trump's rule. It came as species across North America already were in steep decline, with about 3 billion fewer birds compared with 1970, according to researchers.

Researchers have said that cats in the U.S. kill the most birds—more than 2 billion a year.

Besides the BP case, hundreds of enforcement cases—targeting utilities, oil companies and wind energy developers—resulted in criminal fines and civil penalties totaling \$5.8 million between 2010 and 2018.

Federal wildlife officials say relatively few cases end with prosecutions because most companies are willing to take measures to address hazards that their operations may pose to birds.

Courts have been split on whether companies can be prosecuted for unintentional bird deaths.

Interior officials said in March that they plan to come up with new standards for bird deaths by industry, but they have not released further details.

Under former President Barack Obama, the agency started to develop a permitting system that would have allowed industry to kill limited numbers of birds. That work was left unfinished when the Democrat left office.

"A permitting system is a common sense approach to clarifying these longstanding protections," said Sarah Greenberger, vice president for conservation policy at the Audubon Society.

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