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U.S. to Remove Penalties for Accidentally Killing Migratory Birds

Business groups, local governments pushed for limits on 102-year-old law



The Migratory Bird Treaty Act encouraged companies to prevent unintentional bird deaths. Above, a heavily oiled bird is rescued from the waters of Barataria Bay, La., in 2010.

Photo: Gerald Herbert/Associated Press

By Tim Puko
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WASHINGTON—The Trump administration is [removing criminal penalties for accidentally killing migratory birds](#), reversing longstanding federal policy in a move officials say will help landowners and businesses.

The final rule change, announced by the Interior Department Tuesday, completes changes proposed a year ago and in the works since 2017 to limit the Migratory Bird Treaty Act, a 102-year-old law meant to protect the hundreds of bird species that are native to the U.S.

Business groups and local government officials have pushed for the change, saying criminal penalties are too harsh for accidental deaths.

But it comes at a time when wildlife advocates say bird populations are plummeting, facing threats from climate change and habitat loss.

The threat of criminal penalties encouraged farmers, miners, power companies, developers and others to take greater precautions to protect migratory birds, and conservation groups have opposed the changes to keep that incentive in place.

“Trump officials are giving oil companies and other polluters a license to kill birds,” Noah Greenwald, endangered species director at the Center for Biological Diversity said in a statement. “Vast numbers of birds will be electrocuted by power lines, drowned in oil waste pits and killed in other easily preventable ways.”

Interior Department leaders have said the punishments laid out in the law were meant to apply only to businesses and people who intentionally harm or kill birds or destroy their eggs and nests. And they said recent appeals-court decisions support that conclusion.

“This rule simply reaffirms the original meaning and intent of the Migratory Bird Treaty Act by making it clear that the U.S. Fish and Wildlife Service won’t prosecute landowners, industry and other individuals for accidentally killing a migratory bird,” Interior Secretary David Bernhardt said in a statement announcing the rule change is finished.

The rules are especially important for home builders and energy companies, especially the growing wind-power business. The National Ocean Industries Association, the U.S. Chamber of Commerce and the American Farm Bureau Federation are among the business trade groups to support the change.

The final rule is set to be published in the Federal Register on Thursday. It is effective 30 days after that publication.