



Under new rules, species listed as threatened under U.S. law, such as these scalloped hammerhead sharks, would no longer enjoy the same protections as species listed as endangered. FRANCO BANFI/MINDEN PICTURES

New Trump rules would curb U.S. endangered species protections

By **Adam Aton, E&E News** Aug. 12, 2019 , 2:10 PM
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President Donald Trump's administration announced changes to Endangered Species Act (ESA) rules today that complicate efforts to protect at-risk animals and plants by requiring higher standards for government action.

The new rules will apply only to future listing decisions. Plants and animals with existing protections won't be affected unless their status changes.

Administration officials hailed the reforms as balancing conservation with economic interests.

"The best way to uphold the Endangered Species Act is to do everything we can to ensure it remains effective in achieving its ultimate goal—recovery of our rarest species. The Act's effectiveness rests on clear, consistent and efficient implementation," Interior Secretary David Bernhardt said in a statement.

"An effectively administered Act ensures more resources can go where they will do the most good: on-the-ground conservation."

Environmentalists promised to challenge the changes in court, and Democrats promise to attack them on Capitol Hill.

The rules track with the administration's draft regulations in making the biggest change in a generation to a broad swath of the federal conservation regime.

Some of the regulations' biggest impacts deal with the difference between threatened and endangered species.

Wildlife is deemed threatened when it's at risk of becoming endangered in the "foreseeable future." The administration wants to consider only future factors that it deems "likely," not just possible.

The draft regulations would have also allowed the government to disregard some data from computer models; it's not clear whether the final rule keeps that provision.

"We'll look out in the future only so far as we can reliably predict and not speculate," said Gary Frazer, the Fish and Wildlife Service's assistant director for ecological services.

There's no exact time frame the government will follow, he said, adding that the new standard will codify the Interior Department solicitor's opinion that the government currently relies on.

"It'll only go so far as we can reasonably determine that the threats—so this might be climate-induced changes in the physical environment—and the species' responses to those threats are likely. That we're not speculating about those," Frazer said.

Threatened and endangered species have enjoyed some identical protections since 1978, when the Fish and Wildlife Service used its flexible authority

to automatically grant threatened species the same safeguards as endangered ones from harm or disturbance. That's known as the "blanket 4(d) rule."

The administration is ending that. FWS will now have to craft individual regulations for each threatened species.

Administration officials said that provision would encourage better conservation plans, including more voluntary programs. Conservationists predict the extra work will worsen the service's backlog.

The regulations call for greater emphasis on economic impact analysis, even as environmental groups note the law forbids anything except science from influencing a listing decision.

The regulations allow the government to present economic impacts alongside a listing decision. To stay within the law, separate teams would work in parallel on the listing decision and the economic analysis, officials said.

The rules also change the way officials designate critical habitat for a species' recovery. Officials would have to consider protecting areas already occupied by the species before considering unoccupied habitat. Those decisions had been made in tandem in the past.

GOP cheers as enviros threaten lawsuits

Republicans, who have long struggled to push ESA changes through Congress, cheered the new regulations while urging even more action.

"Under the previous administration, the Endangered Species Act strayed woefully far from its original intent. The Act was morphed into a political weapon instead of a tool to protect wildlife. Secretary Bernhardt's dogged dedication to righting this wrong is again made apparent today," Representative Rob Bishop (UT), the House Natural Resources Committee's top Republican, said in a statement.

"These final revisions are aimed at enhancing interagency cooperation, clarifying standards, and removing inappropriate one-size-fits-all practices," he said. "I look forward to supporting efforts in Congress to enshrine these revisions into law."

Some Senate Republicans struck an even more forceful tone.

"These final rules are a good start, but the administration is limited by an existing law that needs to be updated. I am working in the Senate to strengthen the law, so it can meet its full conservation potential," Senate Environment and Public Works Chairman John Barrasso (R-WY) said in a statement.

Environmentalists were promising legal action even as they combed through the regulations' specifics.

"These changes crash a bulldozer through the Endangered Species Act's lifesaving protections for America's most vulnerable wildlife," said Noah Greenwald, endangered species director for the Center for Biological Diversity in Tucson, Arizona.

"For animals like wolverines and monarch butterflies, this could be the beginning of the end. We'll fight the Trump administration in court to block this rewrite, which only serves the oil industry and other polluters who see endangered species as pesky inconveniences."

Others pointed to the waves of die-offs happening around the world, which some scientists have called a mass extinction.

"The impacts of this action are bad enough on their own—but the decision also signals continued willful ignorance from the Trump administration about the looming impacts climate change will have on the American landscape," said Rebecca Riley, legal director for the nature program at the Natural Resources Defense Council, who is based in Chicago, Illinois.

"Many parts of the Endangered Species Act could be helpful in taking a more forward-looking perspective on climate impacts to wildlife, but that seems like an impossibility from this president," Riley said.

Arizona Representative Raúl Grijalva, the Democratic chairman of the Natural Resources Committee, said these changes will only worsen the ongoing "mass extinction." Grijalva suggested he would use his panel to probe the changes.

"These rollbacks of the ESA are for one purpose only: more handouts to special interests that don't want to play by the rules and only want to line their pockets. This action by the Trump administration adds to their ongoing efforts to clear the way for oil and gas development without any regard for the destruction of wildlife and their habitats," said Grijalva.

"I have serious questions on whether inappropriate political influence was exerted over decisions that should be based on the best scientific information."

Senator Tom Udall (D-NM), chairman of the spending subcommittee with jurisdiction over Interior, said Democrats would look for tools to undo the administration's action, including possible use of the Congressional Review Act.

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Trump administration weakens Endangered Species Act

Changes to the United States' landmark conservation law make it easier to strip threatened species of the strongest protections.

Jonathan Lambert



Gray wolves (*Canis lupus*) are one of more than 1,600 threatened and endangered species protected under the US Endangered Species Act. Credit: Riccardo Savi/Getty

The US government is making drastic changes to how the Endangered Species Act (ESA) is applied. The revisions weaken protections for threatened species, and will allow federal agencies to conduct economic analyses when deciding whether to protect a species.

The changes, finalized by the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service on 12 August, are among the most sweeping alterations to the law since it was enacted in 1973.

President Donald Trump's administration says that these updates will ease the burden of regulations and increase transparency into decisions on whether a species warrants

protections. But critics say that the revisions cripple the ESA's ability to protect species under increased threat from human development and climate change.

"These changes tip the scales way in favour of industry," says Brett Hartl, government-affairs director for the Center for Biological Diversity, an environmental advocacy group in Washington DC. "They threaten to undermine the last 40 years of progress."

The attorneys general of California and Massachusetts have already announced their intention to sue the Trump administration over the changes, which they call unlawful.

Limits to protections

Chief among the changes is the removal of blanket protections for threatened animals and plants.

Until now, any species deemed threatened — a category for organisms at risk of becoming endangered — by the FWS automatically has received the same protections as endangered species. They include bans on killing threatened and endangered species. Now, those protections will be determined on a case-by-case basis, a move which will likely reduce overall protections for species that are added to the threatened list, says Hartl.

The revisions also narrow the scope of those protections. Previously, government officials considered threats that

would affect a species in the “foreseeable future”, such as climate change. Now, they have leeway to determine the time period meant by the foreseeable future, and can only consider threats that are “likely” to occur in that time frame. Critics say that this weaker language could allow regulators to ignore threats from climate change, such as rising sea levels, because their effects might not be felt for decades.

And in a third change to the ESA, the Trump administration removed language explicitly prohibiting the consideration of the economic impacts of listing a species. However, the FWS will continue to rely only on the best available science when determining whether a species should be listed, said Gary Frazer, the assistant director for endangered species at FWS, in a press call.

The changes to the ESA are expected to be published in the US government's Federal Register this week. They will take effect 30 days after publication.

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U.S. Significantly Weakens Endangered Species Act



A bald eagle, one of the Endangered Species Act's success stories, near Castle Dale, Utah.

Credit

Credit

Brandon Thibodeaux for The New York Times

By Lisa Friedman

Aug. 12, 2019

WASHINGTON — The Trump administration on Monday announced that it would change the way the Endangered Species Act is applied, significantly weakening the nation's bedrock conservation law and making it harder to protect wildlife from the multiple threats posed by climate change.

The new rules would make it easier to remove a species from the endangered list and weaken protections for threatened species, the classification one step below endangered. And, for the first time, regulators would be allowed to conduct economic assessments — for instance, estimating lost revenue from a prohibition on logging in a critical habitat — when deciding whether a species warrants protection.

Critically, the changes would also make it more difficult for regulators to factor in the effects of climate change on wildlife when making those decisions because those threats tend to be decades away, not immediate.

Over all, the revised rules appear very likely to clear the way for new mining, oil and gas drilling, and development in areas where protected species live.

Interior Secretary David Bernhardt said the changes would modernize the Endangered Species Act — which is credited with rescuing the bald eagle, the grizzly bear and the American alligator from the brink of extinction — and increase transparency in its application. “The act's effectiveness rests on clear, consistent and efficient implementation,” he said in a statement Monday.



Interior Secretary David Bernhardt on Capitol Hill in May.

Credit

Mark Makela for The New York Times

The new rules are expected to go into effect next month.

Environmental groups, Democratic state attorneys general and Democrats in Congress denounced the changes and vowed to challenge them in Congress and in the courts.

Maura Healey, the attorney general of Massachusetts, called the changes “reckless” and said states would “do everything we can to oppose these actions.”

Senator Tom Udall of New Mexico, the top Democrat on the committee that oversees the Interior Department’s budget, said Democrats were considering invoking the Congressional Review Act, a 1996 law that gives Congress broad authority to invalidate rules established by federal agencies, to block the changes.

The Endangered Species Act has been regulators’ most powerful tool for protecting fish, plants and wildlife ever since it was signed into law by President Richard M. Nixon in 1973. The peregrine falcon, the humpback whale, the Tennessee purple coneflower and the Florida manatee all would very likely have disappeared without it, scientists say.

Republicans have long sought to narrow the scope of the law, saying that it burdens landowners, hampers industry and hinders economic growth. Mr. Bernhardt, a former oil and gas lobbyist, wrote in [an op-ed](#) last summer that the act places an “unnecessary regulatory burden” on companies.

They also make the case that the law is not reasonable because species are rarely removed from the list. Since the law was passed, more than 1,650 have been listed as threatened or endangered, while just 47 have been delisted because their populations rebounded.

Over the past two years Republicans made a [major legislative push to overhaul the law](#). Despite holding a majority in both houses of Congress, though, the proposals were never taken up in the Senate. With Democrats now in control of the House, there is little chance of those bills passing.

The Trump administration’s revisions to the regulations that guide the implementation of the law, however, mean opponents of the Endangered Species Act are still poised to claim their biggest victory in decades.



A grizzly bear in Yellowstone National Park. The park's grizzlies were recently restored to full protection under the Endangered Species Act.

Credit

Josh Haner/The New York Times

Among the most controversial changes are the limitations on the ability of regulators to take climate change into consideration when making listing assessments.

David J. Hayes, who served as a deputy interior secretary under President Barack Obama and is now executive director of the State Energy and Environmental Impact Center at the New York University School of Law, said the changes would “straitjacket the scientists to take climate change out of consideration” when determining how to best protect wildlife.

A recent United Nations assessment, some environmentalists noted, warned that [human pressures are poised to drive one million species into extinction](#) and that [protecting land and biodiversity is critical](#) to keep greenhouse gas emissions in check.

Climate change, a lack of environmental stewardship and mass industrialization have all contributed to the enormous expected global nature loss, the United Nations report said.

Another contentious change removes longstanding language that prohibits the consideration of economic factors when deciding whether a species should be protected.

Under the current law, such determinations must be made solely based on science, “without reference to possible economic or other impacts of determination.”

Gary Frazer, the assistant director for endangered species with the United States Fish and Wildlife Service, said that phrase had been removed for reasons of “transparency.” He said the change leaves open the possibility of conducting economic analyses for informational purposes, but that decisions about listing species would still be based exclusively on science.

Environmental groups saw a danger in that. “There can be economic costs to protecting endangered species,” said Drew Caputo, vice president of litigation for lands, wildlife and oceans at [Earthjustice](#), an environmental law organization. But, he said, “If we make decisions based on short-term economic costs, we’re going to have a whole lot more extinct species.”

The new rules also give the government significant discretion in deciding what is meant by the term “foreseeable future.” That’s a semantic change with far-reaching implications, because it enables regulators to disregard the effects of extreme heat, drought, rising sea levels and other consequences of climate change that may occur several decades from now.



A pair of whooping cranes and a chick in Jefferson Davis Parish, La. Whooping cranes are critically endangered.

Credit

Gerald Herbert/Associated Press

When questioned about that change and its implications in the era of climate change, Mr. Frazer said the agency wanted to avoid making “speculative” decisions far into the future.

Among the animals at risk from this change, Mr. Caputo listed a few: Polar bears and seals that are losing crucial sea ice; whooping cranes whose migration patterns are shifting because of temperature changes; and beluga whales that will have to dive deeper and longer to find food in a warmer Arctic.

Representative Rob Bishop of Utah, the top Republican on the House Natural Resources Committee, applauded the changes, saying the Endangered Species Act had become a “political weapon instead of a tool to protect wildlife” under the Obama administration.

“These final revisions are aimed at enhancing interagency cooperation, clarifying standards, and removing inappropriate one-size-fits-all practices,” he said.

Erik Milito, a vice president at the American Petroleum Institute, a trade group representing the oil and gas industry, also praised the new rule and said the changes would reduce “duplicative and unnecessary regulations.”

Environmentalists warn Trump 'weakening' endangered species protections

1 hour ago



The US federal government has announced an overhaul of the way it enforces the Endangered Species Act, a law credited with preventing countless extinctions.

Trump officials say the new plan will reduce regulations, but environmental groups warn it will "crash a bulldozer" through the landmark 1973 legislation.

The plan removes automatic protections for threatened species and allows economic factors to be considered.

Critics say the new rules will speed extinction for vulnerable wildlife.

Ten state attorneys general have announced plans to sue over the new regulation.

The Endangered Species Act, which Republican President Richard Nixon signed into law in 1973, protects more than 1,600 plant and animals species today, and is credited with saving the California condor, the Florida manatee, the gray whale and grizzly bear among others.

What's in the new regulation?

The new rules, which go into effect in 30 days, will for the first time allow economic factors to be considered when weighing what protections should be provided to vulnerable species.

Under current law, wildlife management decisions are only allowed to be based on science and "without reference to possible economic or other impacts of determination".

Interior Secretary David Bernhardt, a former oil lobbyist, announced the change on Monday, saying the change allowed the law to "ensure it remains effective in achieving its ultimate goal - recovery of our rarest species," he said.

"An effectively administered act ensures more resources can go where they will do the most good: on-the-ground conservation."

Gary Frazer, assistant director of the US Fish and Wildlife Service, told reporters that cost of care will be disclosed to the public, and will not violate Congress' stipulation that economic costs not be weighed.

"Nothing in here in my view is a radical change for how we have been consulting and listing species for the last decade or so," he said.

'A wrecking ball'

Critics said the rule change would speed the extinction of many species, and was done just to allow industries to expand onto land required for ecological diversity.

Noah Greenwald, the Center for Biological Diversity's endangered species director, said in a statement: "These changes crash a bulldozer through the Endangered Species Act's lifesaving protections for America's most vulnerable wildlife."

"For animals like wolverines and monarch butterflies, this could be the beginning of the end," Mr Greenwald added

Drew Caputo, from the group Earthjustice, threatened to sue, saying: "This effort to gut protections for endangered and threatened species has the same two features of most Trump administration actions: it's a gift to industry, and it's illegal."

Several critics noted a UN report from May, which warned that more than one million plants and animals are facing global extinction due to human development and climate change.

Democrat Senator Tom Udall, who represents the state of New Mexico, said the new regulation will "take a wrecking ball to one of our oldest and most effective environmental laws".

The cost of Trump's Endangered Species Act proposal

By Max Matza
BBC News, Washington
20 July 2018



The rebound of bald eagle populations is one of the greatest conservation stories in American history.

The Trump administration has proposed changes to the Endangered Species Act (ESA), a law credited with keeping hundreds of species from going extinct.

The change would eliminate automatic protections for threatened plant and animal species, and make it easier for species to be removed from the list.

Wildlife conservation groups say the proposed change could have disastrous lasting effects on at-risk species.

Trump officials say the change will streamline the regulatory process.

The proposed change is the latest in a series of White House efforts to remove environmental regulations designed to protect vulnerable species and their habitats, as well as leave untouched some of America's most wild places.

Environmental groups have reacted with outrage, and the Center for Biological Diversity said "these proposals would slam a wrecking ball into the most crucial protections for our most endangered wildlife".



Grizzly bears in Yellowstone National Park were once on the brink of extinction.

"If these regulations had not been in place in the 1970s, the bald eagle and the grey whale would be extinct today."

The Endangered Species Act was signed into law in 1973 by Republican President Richard Nixon and now protects more than 1,200 plant and animal species.

The list of species is maintained by US Fish and Wildlife and the National Oceanic and Atmospheric Administration, which oversees marine species.

It has been credited with reviving bald eagle populations and bringing the Yellowstone grizzly bear back from the edge of extinction.

Here are several species that could be affected by the change, or may not currently exist if it was not for the landmark law.

Polar bears

Experts agree that arctic sea ice - which polar bears require for fishing and hunting - is shrinking, which is leading to enormous stresses on the world's largest bear species.

The proposed change to the ESA includes a narrowing of the definition of "foreseeable future".



The US government says they want the language clarified to "make it clear that it extends only as far as [wildlife officials] can reasonably determine that both the future threats and the species' response to those threats are probable". Environmentalists fear the new language will make it possible for government biologists to disregard the long-term effects of climate change on the environment.

The polar bear could be emblematic of many species being affected by climate change, says Bob Dreher of the environmental group Defenders of Wildlife.

Whether government biologists will recognise "this slow-acting but inevitable change in ecosystem because of climate change" or wait until more evidence is available is unclear, he tells the BBC.



A California gnatcatcher hangs on to a buckwheat plant

California gnatcatcher

The ESA provides blanket protections to species which are categorised as either "threatened" - such as the California gnatcatcher - or "endangered".

Endangered species are those likely to go extinct, while threatened species are those likely to become endangered.

Under current law, both are granted "critical habitat" protections, but the Trump administration wants automatic protections for threatened species to be eliminated and, in the future, to be considered on a case by case basis.

Protections for the California gnatcatcher have barred development across nearly 100,000 acres of land in the Greater Los Angeles area, according to the Los Angeles Times.

If not for their current protections, their native habitat would likely become part of more urban sprawl.

Sage grouse



The sage grouse has been a candidate for protection as a threatened species for nearly a decade, but it is unclear if it will ever be added. They, as well as the dunes sagebrush lizard, have seen their territory encroached upon by human development and have seen decreasing populations in recent years. The distinctive sage grouse return to their breeding grounds, known as Leks, every year. Biologists believe some Leks can be hundreds of years old.



Trump has allowed hunters to kill bear cubs in their dens

If the sage grouse does achieve threatened status, environmentalists fear under the new Trump proposal it would be too late for them to gain the broad protections they need.

American grey wolf

Although the proposed change would only affect future creatures joining the list, Mr Dreher says that if the proposed rules had been in effect in the 1970s, animals such as wolves and bald eagles may have been extinct by now.



In a significant reversal, the proposed change would eliminate language that precludes wildlife experts from considering economic impacts when determining when an organism should be listed.

Wolves, which were re-introduced in the lower 48 states, have faced criticism from ranchers and farmers who argue that they have impacted their livelihood by killing their livestock.

Re-introducing them to the continental US came at great cost and effort, says Mr Dreher, a former US Fish and Wildlife official.

Mr Dreher says that the ESA was designed by Congress to say that "the value of life on earth is priceless" and that politicians should not have to decide whether it is "too expensive" to prevent extinction.

"If we made those decisions you can see under different administrations we would end up protecting nothing. Because who knows what a snail is worth? Who knows what a frog is worth?"

New Trump rules weaken wildlife protections

The rules will shrink habitats that animals and plants rely on for survival.

A grizzly bear and a cub along the Gibbon River in Yellowstone National Park in Wyoming. (Frank van Manen/United States Geological Survey/AP)

By [Darryl Fears](#)

August 12 at 12:22 PM

Three months after [a U.N. report warned that 1 million species](#) face extinction because of human activity, the Trump administration on Monday finalized rule changes to the Endangered Species Act that make it harder to protect plants and animals whose populations are in serious decline.

The rules, jointly announced by the Interior and Commerce departments, were changed as part of President Trump's mandate to scale back government regulations on behalf of businesses. In that vein, language in the act that required officials to rely heavily on science when considering whether to place a species on the threatened or endangered list, regardless of economic impact, was erased.

Potential threats to business opportunities and other costs of listing species can now be considered by the government and shared with the public. Officials said those considerations would not affect listing decisions, but lawmakers and conservationists noted that it could inflame public opposition to proposals to rescue fragile populations.

"The revisions finalized with this rulemaking fit squarely within the president's mandate of easing the regulatory burden on the American public, without sacrificing our species' protection and recovery goals," said Commerce Secretary Wilbur Ross. "These changes were subject to a robust, transparent public process, during which we received significant public input that helped us finalize

these rules.”

Administration officials said in a telephone news conference that the new rules will only affect future listings and will not be retroactive. But conservationists pointed out that the new rules would have made it nearly impossible to list the polar bear as threatened due to the loss of sea ice in Arctic, one of the fastest warming areas in the world.

Climate change projections at least 80 years into the future factored into the polar bear listing. Under the Trump administration, which has shown consistent opposition to climate science, including studies by federal researchers, officials will only consider potential climate impact in the next few years, coining the phrase “foreseeable future” to describe the outlook.

“When you start reaching out to 70 or 80 years” to project climate impacts on the planet and wildlife, the amount of certainty about what could happen “starts to degrade significantly,” said Gary Frazer, assistant director for endangered species at the U.S. Fish and Wildlife Service, a division of Interior.

That outlook could have an effect on how the administration preserves wildlife habitat. Currently, land that plants and animals occupy is set aside for their protection, in addition to areas that they once occupied or might need in the future.

Moving forward, critical habitat that is not occupied habitat might not be protected, opening it up for oil and gas exploration or other forms of development.

Conservationists and some lawmakers decried the changes as a major rollback of the 46-year-old law credited with saving the bald eagle, grizzly bear, humpback whale, American alligator and Florida manatee from extinction.

“They’re trying to make it difficult, if not impossible, to protect unoccupied habitat,” said Rebecca Riley, legal director for nature program at the Natural Resources Defense Council. “We know climate change is going to force animals to move to new habitats.”

For example, she said, the western snowy plover that nests on the coast is being affected by sea level rise. “As the sea rises, it will need to move inland. If we can’t protect those areas because it’s not occupied today, that habitat might not be there when they need it,” Riley said.

“Today, the Trump administration issued regulations that take a wrecking ball to one of our oldest and most effective environmental laws, the Endangered Species Act,” Sen. Tom Udall (D-N.M.) said in a statement. “As we have seen time and time again, no environmental protection — no matter how effective or popular — is safe from this administration.”

In May, a U.N. report on world biodiversity found that 1 million plant and animal species are on the verge of extinction, with alarming implications for human survival.

The report, written by seven experts from universities around the world, directly linked the loss of species to human activity and showed how those losses are undermining food and water security,

along with human health.

More plants and animals are threatened with extinction now than at any other period in human history, the report said.