

Dept. of Justice: AG Kaul joins coalition in support of federal efforts to restore Endangered Species Act protections for habitat

Posted on Wednesday, Dec 1, 2021

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MADISON, Wis. – Attorney General Josh Kaul, as part of a multistate coalition, filed [comments](#) in support of the Biden Administration’s proposal to rescind two Trump-era rules that would drastically reduce the designation of critical habitat under the federal Endangered Species Act. In the comments, the coalition argues, as it has in ongoing litigation, that these rules, finalized in the last days of the Trump Administration, violate the Endangered Species Act, the Administrative Procedure Act, and the National Environmental Policy Act and should be rescinded.

“The Endangered Species Act was enacted decades ago as a bipartisan effort to save wildlife resources,” said Attorney General Josh Kaul. “The Trump administration rules that weaken the protection provided by that legislation should be withdrawn.”

Enacted under the Nixon Administration in 1973, the Endangered Species Act is intended “to halt and reverse the trend toward species extinction, whatever the cost.” Under the Endangered Species Act, the U.S. Fish and Wildlife Service (FWS) is responsible for listing species as “endangered” or “threatened” and designating “critical habitat” for each such species based on “the best scientific data available” and after considering economic, national security, and other relevant impacts. Areas designated as critical habitat are provided with significant protections to ensure that species have the ability to recover to sustainable population levels so that they no longer need to be listed.

In the final days of the Trump Administration, FWS finalized two rules that would drastically reduce the amount of habitat protected under the federal Endangered Species Act. The first rule added a new, restrictive definition of “habitat” to regulations for making critical habitat designations, while the second established a new, unlawful process for excluding areas from critical habitat designations.

Attorney General Kaul joined a coalition in challenging these rules in court, and now urges the Biden Administration to finalize its rescission of the two rules without delay. Attorney General Kaul further urges the Biden Administration to work to address the significant threats posed by habitat destruction and degradation and climate change in order to fulfill the Endangered Species Act’s fundamental purposes of protecting imperiled species and supporting their full recovery.

In filing the comment letter, Attorney General Kaul joins the attorneys general of California, Maryland, Massachusetts, Connecticut, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington, as well as the City of New York.