DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AJ03

Endangered and Threatened Wildlife and Plants; Removing the Eastern Distinct Population Segment of Gray Wolf From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) announces our intention to conduct rulemaking under the Endangered Species Act of 1973, as amended (Act), to remove the Eastern Distinct Population Segment (DPS) of gray wolf (*Canis lupus*) from the List of Endangered and Threatened Wildlife in the near future. Specifically, we intend to propose to delist the gray wolf in the Midwest and Northeastern United States where it is presently listed. If this proposal is finalized, the gray wolf would be delisted in the Eastern Gray Wolf DPS, existing special regulations established under section 4(d) of the Act for the Eastern DPS would be abolished, and future management of this species would be conducted by the appropriate State and tribal wildlife agencies. As published concurrently in this **Federal Register**, the Service also intends to initiate proposed rulemakings to delist gray wolves in the Western Gray Wolf DPS and to remove all nonessential experimental population designations in the northern U.S. Rocky Mountains. Neither proposed rulemaking would affect the protection currently afforded by the Act to gray wolves in the Southwestern DPS, the nonessential experimental population in the Southwest DPS, or the red wolf (*Canis rufus*), a separate species found in the southeastern United States that is listed as endangered.

DATES: We are not seeking comments on this planned proposed rulemaking at this time. A public comment period, including the opportunity for public hearings and informational meetings, will follow the publication of the proposed rule to remove (or delist) the Eastern Gray Wolf DPS.

ADDRESSES: Gray Wolf Questions, U.S. Fish and Wildlife Service, Federal Building, 1 Federal Drive, Ft. Snelling, MN 55111–4056l; Gray Wolf Phone Line—612–713–7337, facsimile—612–713–5292, or the general gray wolf electronic mail address—*GRAYWOLFMAIL@FWS.GOV.* Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 1–800–877–8337 for TTY assistance.

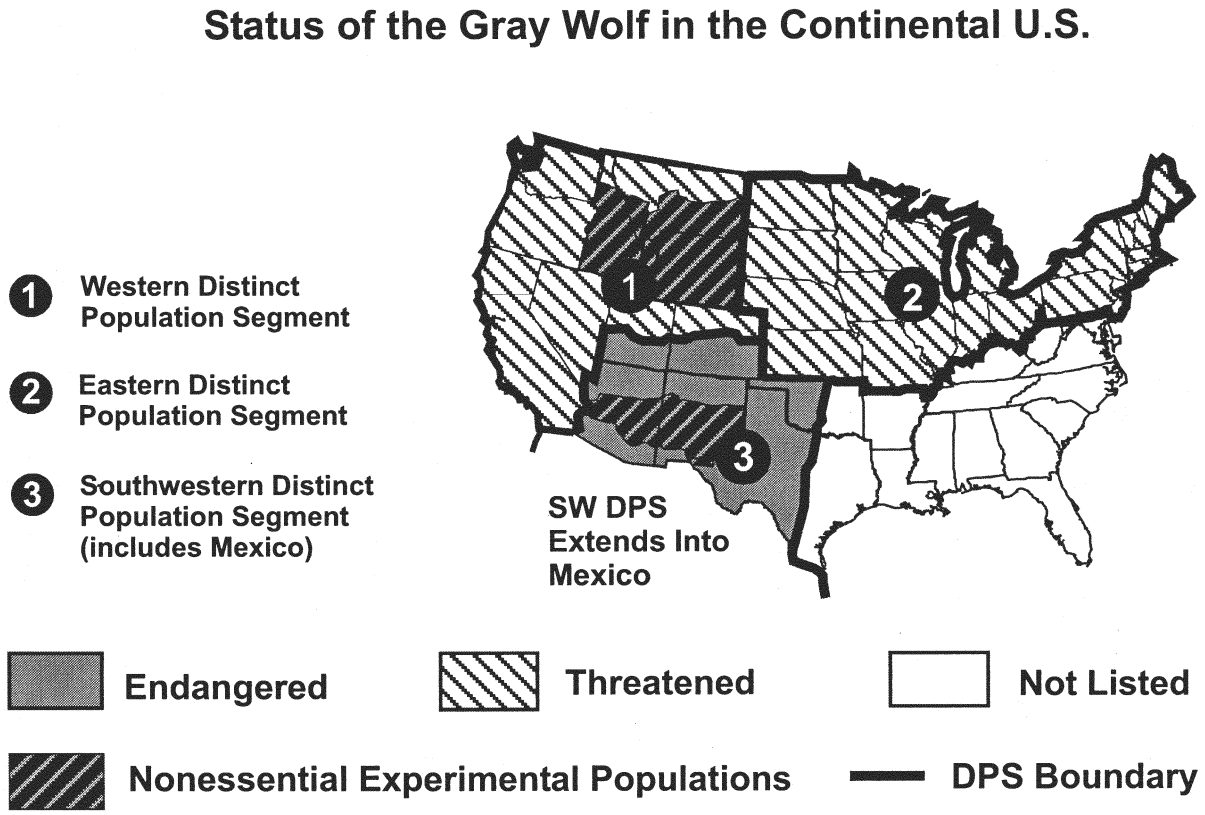
FOR FURTHER INFORMATION CONTACT: Ron Refsnider, phone 612–713–5346. Additional information on gray wolf recovery in the Eastern DPS is available on our World Wide Web site at *http://midwest.fws.gov/wolf.* Direct all questions or requests for additional information to the Service (*see* **ADDRESSES** above).

SUPPLEMENTARY INFORMATION:

Background

Published concurrently in today's **Federal Register** is our final rule establishing three Distinct Population Segments (DPSs) of gray wolves within the conterminous 48 States in accordance with our Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (61 FR 4722, February 7, 1996) and reclassifying two of these DPSs based on the status of current wolf populations within these DPSs. The Eastern Gray Wolf DPS and Western Gray Wolf DPS are reclassified as threatened while the Southwestern Gray Wolf DPS remains endangered (*see* map). The final reclassification rule summarizes information on the biology and ecology of gray wolves, taxonomy, historical range, previous Federal action, DPS designations, recovery plans, and the recovery progress of gray wolves in the lower 48 States.

This advance notice of proposed rulemaking (ANPR) announces our intent to propose rulemaking to remove the Eastern Gray Wolf DPS from protection under the Act based on evidence, as described in the final reclassification rule, indicating that the gray wolf in the Eastern Gray Wolf DPS is exceeding its recovery goals and objectives and on our preliminary analysis of threats to the DPS. The Eastern Gray Wolf DPS consists of gray wolves within the States of North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine, and those gray wolves in captivity that originated from, or whose ancestors originated from, this geographic area.



In addition, this ANPR announces our intention to respond to petitions for delisting the gray wolves in the Midwest through this anticipated proposed rulemaking. As stated in the final reclassification rule published today, Mr. Lawrence Krak, of Gilman, Wisconsin, and the Minnesota Conservation Federation have petitioned us to delist gray wolves in Minnesota, Wisconsin, and Michigan, and in the Western Great Lakes DPS.

Conservation and Recovery of the Gray Wolf in the Eastern DPS

Understanding the Service's strategy for gray wolf recovery first requires an understanding of the meaning of ''recover'' and ''conserve'' under the Act. ''Conserve'' is defined in the Act itself (section 3(3)) while ''recovery'' is defined in the Act's implementing regulations at 50 CFR 402.02. Conserve is defined, in part, as ''the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.'' Recovery is defined as ''improvement in the status of listed species to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1) of the Act.'' Essentially, recover and conserve both mean to bring a species to the point at which it is no longer threatened or endangered and no longer needs the protections of the Act.

Critical to our analysis of whether a species is ready for delisting is the achievement of the species' recovery goals, the reduction of threats to the species that caused the species to become listed, and the reduction of any new threats that could cause the species to become endangered in the foreseeable future. To determine the appropriate goals for achieving recovery, we rely on a peer-reviewed Recovery Plan. As reported in the final reclassification rule, we believe the revised Eastern Timber Wolf Recovery Plan (Service 1992) to be adequate and sufficient to ensure long-term population viability (Peterson *in litt.* 1997). The population goal set within the Eastern Timber Wolf Recovery Plan was for a Minnesota wolf population of 1,250–1,400 animals to maintain the gray wolf's genetic diversity over the long-term and provide the resiliency to reduce the adverse impacts of unpredictable chance demographic and environmental events. The Minnesota wolf population currently is estimated to be double that numerical goal (Berg and Benson 1999; Mech 1998; Paul 2001).

In addition, the Eastern Timber Wolf Recovery Plan calls for establishing a second population of 100 gray wolves for 5 successive years in the Eastern United States. As documented in the final reclassification rule, such a second wolf population has developed in Wisconsin and the adjacent Upper Peninsula of Michigan and has exceeded its recovery goal since 1994 (Wisconsin Department of Natural Resources (WI DNR) 2002; Wydeven *et al.* 2002; Michigan Department of Natural Resources 2002). Wisconsin Department of Natural Resources preliminarily estimated that about 320 wolves in 70 to 80 packs were in the State in late winter 2001–2002 (WI DNR 2002, Wydeven *et al.* 2002).

As also described in the final reclassification rule, there is no convincing evidence in recent decades of another wild gray wolf population in the United States east of Michigan, so the area in the western Great Lakes States where the wolf currently exists represents the entire range of the species within the Eastern Gray Wolf DPS.

In making a delisting determination, the Service must assess the factors or threats that affect the species as required by section 4 of the Act and its implementing regulations (50 CFR part 424). For species that are already listed as threatened or endangered, this analysis of threats is primarily an evaluation of the threats that could potentially affect the species in the foreseeable future following delisting and removal of the Act's protections.

Our evaluation of the future threats to the gray wolf in the Eastern DPS, especially those threats to wolves in the Midwest that would occur after removal or reduction of the protections of the Act, will be partially based upon the wolf management plans and assurances of the States and tribes in that area. If the gray wolf is federally delisted, then State and tribal wolf management plans will be the major determinants of wolf protection and prey availability, will set and enforce limits on human utilization and other forms of taking, and will determine the overall regulatory framework for conservation of gray wolves.

State and tribal gray wolf management plans, to the extent that they have been developed, serve as significant indicators of public attitudes and agency goals, which, in turn, are evidence of the probability of continued conservation after protection under the Act is removed. Such indicators of attitudes and goals are especially important in assessing the future of a species that was officially persecuted by government agencies as recently as 40 years ago and still is reviled by some members of the public.

All three Midwestern States with wolf populations (Minnesota, Wisconsin, and Michigan) have completed wolf management plans. We believe that these plans provide sufficient information for us to analyze the future threats to the Eastern Gray Wolf DPS that will exist after Federal delisting. We will consult with Native American tribes and organizations to further discuss and evaluate their wolf management and protection plans prior to issuing a proposed delisting rule.

We recognize that large portions of the historic range, including potentially still-suitable habitat within the Eastern Gray Wolf DPS, are not currently occupied by gray wolves. We emphasize that our proposal to delist gray wolves in the Eastern DPS will be based on the current status of, and threats faced by, the existing wolf populations within this DPS. This approach is consistent with the 9th Circuit Court's decision in *Defenders of Wildlife et al.* v. *Norton et al.,* where the Court noted that ''[a] species with an exceptionally large historical range may continue to enjoy healthy population levels despite the loss of a substantial amount of suitable habitat.'' Similarly, we believe that when a listed species has recovered to the point where it is no longer in danger of extinction, or likely to become endangered in the foreseeable future, throughout all or a significant portion of its current range, it is appropriate to delist the species even if a substantial amount of the historical range remains unoccupied.

The wolf's progress toward recovery in the Eastern Gray Wolf DPS, together with our preliminary determination that management of threats to the wolf within the DPS will be adequate, enables us to propose delisting in the near future.

Post-Delisting Monitoring

Upon removal of a species from the List of Endangered and Threatened Wildlife, section 4(g)(1) of the Act requires that the Secretary of the Interior, through the Service, implement a monitoring program in cooperation with the States for not less than 5 years for all species that have been recovered and delisted. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If at any time during the post-delisting monitoring program, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

In anticipation of delisting this species, we also announce our intent to work with State resource agencies, tribes, and other partners to design an effective post-delisting monitoring program for the Eastern Gray Wolf DPS to be implemented upon delisting. A proposed post-delisting monitoring plan will be provided in the proposed rule for delisting the Eastern Gray Wolf DPS.

Effects of This Advance Notice of Proposed Rulemaking

This ANPR announces our intent to propose rulemaking removing protections afforded to gray wolves in the Eastern Gray Wolf DPS under the Act. If we make a final decision to delist the gray wolf in the Eastern DPS, the prohibitions and conservation measures provided by the Act would no longer apply to this DPS, and the critical habitat designation in the Eastern Gray Wolf DPS would be removed. Therefore, taking, interstate commerce, import, and export of gray wolves in the Eastern Gray Wolf DPS would no longer be prohibited under the Act once the DPS is delisted. In addition, Federal agencies would no longer be required to consult with us under section 7 of the Act to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of gray wolves in the Eastern Gray Wolf DPS or destroy or adversely modify designated critical habitat.

Until the Eastern Gray Wolf DPS is delisted, the take and use of gray wolves in the Eastern Gray Wolf DPS must comply with the Act and all other existing Federal, State, and local laws. Upon delisting, we anticipate that State and tribal gray wolf management plans, along with other appropriate Federal, State, and local laws and regulations, would guide gray wolf management in the Eastern DPS area.

This ANPR does not address gray wolves in the Western DPS, Southwestern DPS, or the current nonessential experimental population designations in those two DPSs.

No Request for Comment

The Service has not made a final decision as to any potential regulatory matter discussed herein and does not request any public comment on this ANPR. We will be following standard rulemaking procedure and anticipate publishing a proposed rule on the removal of the Eastern Gray Wolf DPS from the List of Endangered and Threatened Wildlife in the near future. A public comment period will open upon publication of the proposed rule in the **Federal Register**, and we anticipate conducting public hearings during the public comment period to discuss the proposed rulemaking with you.

References Cited

Berg, W.E., and S. Benson. 1999. Updated wolf population estimate for Minnesota, 1997–1998. Minnesota Department of Natural Resources Report. Grand Rapids, Minnesota. 14 pp.

Mech, L.D. 1998. Estimated costs of maintaining a recovered wolf population in agricultural regions of Minnesota. Wildl. Soc. Bull. 26:817–822.

Michigan Department of Natural Resources. 2002. Michigan's wolf population continues to rise. News release, dated April 30, 2002.

Paul, W.J. 2001. Wolf depredation on livestock in Minnesota, annual update of statistics—2000. U.S. Dep. of Agri., Animal & Plant Health Inspection Serv., Wildl. Serv. Grand Rapids, Minnesota. 13 pp.

U.S. Fish and Wildlife Service. 1992. Recovery plan for the eastern timber wolf. Twin Cities, MN 73 pp.

Wisconsin Department of Natural Resources. 2002. Wisconsin wolf population estimated at 320. News release, dated April 16, 2002.

Wydeven, A.P., J.E. Wiedenhoeft, R.N. Schultz, R.P. Thiel, S.R. Boles, and B.E. Kohn. 2002. Progress report of wolf population monitoring in Wisconsin for the period October 2001–March 2002. Unpublished report by Wisc. Dept. Natural Resources, Park Falls, WI. 43 pp.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: March 17, 2003.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 03–7020 Filed 3–31–03; 8:45 am]

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DEPARTMENT OF THE INTERIOR

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AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

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DATES: We are not seeking comments on this planned proposed rulemaking at this time. A public comment period, including the opportunity for public hearings and informational meetings, will follow the publication of the proposed rule to remove (or delist) the Western Gray Wolf DPS.

ADDRESSES: U.S. Fish and Wildlife Service, Western Gray Wolf Recovery Coordinator, 100 N. Park, #320, Helena, MT 59601; *WesternGrayWolf@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Ed Bangs, phone 406–449–5225 ext. 204. Additional information on gray wolf recovery in the Western DPS is available on our World Wide Web site at *http://westerngraywolf.fws.gov.* Direct all questions or requests for additional information to the Service (*see* **ADDRESSES** above).

SUPPLEMENTARY INFORMATION:

Background

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