

**Author**

The primary author of this document is the Chesapeake Bay Field Office, Annapolis, MD.

**Authority**

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 31, 2007.

**Kenneth Stansell,**

*Acting Director, U.S. Fish and Wildlife Service.*

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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17****RIN 1018-AV39**

**Endangered and Threatened Wildlife and Plants; Proposed Revision of Special Regulation for the Central Idaho and Yellowstone Area Nonessential Experimental Populations of Gray Wolves in the Northern Rocky Mountains**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of draft environmental assessment; reopening of comment period on proposed revision.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) have prepared a draft environmental assessment (EA) of our proposal to revise the 2005 special rule for the central Idaho and Yellowstone area nonessential experimental populations of the gray wolf (*Canis lupus*) in the northern Rocky Mountains.

The Service is reopening the comment period for the proposed revisions to the 2005 special rule to allow all interested parties to comment simultaneously on the proposed revisions and the draft EA. If you have previously submitted comments on the proposed revisions, you do not need to resubmit them because those comments have been incorporated into the public record and will be fully considered in our final decision.

**DATES:** We will accept public comments on the draft EA and the proposal to revise the special regulation through October 11, 2007. Comments received after the closing date will not be considered in our final decision.

**ADDRESSES:****Draft EA**

You may obtain a copy of the draft EA by writing us at: U.S. Fish and Wildlife Service, Western Gray Wolf Recovery Coordinator, 585 Shepard Way, Helena, MT 59601 or by visiting our Web site at: <http://www.fws.gov/mountain-prairie/species/mammals/wolf/>. If you wish to comment on the draft EA, you may submit comments and materials, identified by "RIN 1018-AV39," by any of the following methods:

1. You may mail or hand-deliver comments to the U.S. Fish and Wildlife Service, Western Gray Wolf Recovery Coordinator, 585 Shepard Way, Helena, MT 59601.

2. You may send comments by electronic mail (e-mail) directly to the Service at [EA-WolfRuleChange@fws.gov](mailto:EA-WolfRuleChange@fws.gov). Include "RIN 1018-AV39" in the subject line of the message.

**Proposal To Revise 10(j) Special Rule**

You may also obtain a copy of the proposal to revise the 2005 special regulation by writing us at: U.S. Fish and Wildlife Service, Western Gray Wolf Recovery Coordinator, 585 Shepard Way, Helena, MT 59601 or by visiting our Web site at: <http://www.fws.gov/mountain-prairie/species/mammals/wolf/> or <http://www.fws.gov/mountain-prairie/species/mammals/wolf/72FR36942.pdf>. If you wish to comment on the proposal to revise the special regulation, you may submit comments and materials, identified by "RIN 1018-AV39," by any of the following methods:

1. You may mail or hand deliver written comments to the U.S. Fish and Wildlife Service, Western Gray Wolf Recovery Coordinator, 585 Shepard Way, Helena, MT 59601.

2. You may send comments by electronic mail (e-mail) directly to the Service at [WolfRuleChange@fws.gov](mailto:WolfRuleChange@fws.gov). Include "RIN 1018-AV39" in the subject line of the message.

3. You may submit your comments through the Federal e-Rulemaking Portal—<http://www.regulations.gov>. Follow the instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:**

Edward E. Bangs, Western Gray Wolf Recovery Coordinator, U.S. Fish and Wildlife Service, at our Helena office (see **ADDRESSES**) or telephone (406) 449-5225, extension 204. Persons who use a Telecommunications Device for the Deaf may call the Federal Information Relay Service at (800) 877-8339, 24 hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:****Public Comments Solicited**

We intend that any final action resulting from the proposal to revise the 2005 special rule (see 72 FR 36942, July 6, 2007) for the central Idaho and Yellowstone area populations of gray wolves in the northern Rocky Mountains will be as accurate and as effective as possible. Therefore, we are requesting data, comments, new information, or suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested party concerning the draft EA and proposed rule. We particularly seek comments concerning (1) our draft EA as it analyzes effects of the proposed rule; (2) our proposed modifications to the 2005 experimental population rule to allow private citizens in States with approved post-delisting wolf management plans to take wolves in the act of attacking their stock animals or dogs; and (3) our proposal to establish a reasonable process for States and Tribes with approved post-delisting wolf management plans to allow removal of wolves that are scientifically demonstrated to be impacting ungulate populations to the degree that they are not meeting respective State and Tribal management goals.

We specifically ask for comments regarding whether our draft EA accurately analyzes impacts and alternatives. We are also specifically requesting comments addressing whether the proposed rule modifications would: (1) Reasonably address conflicts between wolves and domestic animals or wild ungulate populations; (2) provide sufficient safeguards to prevent misuse of the modified rule; (3) provide an appropriate and transparent public process that ensures decisions are science-based; and (4) provide adequate guarantees that wolf recovery will not be compromised.

The draft EA has been prepared under the requirements of the National Environmental Policy Act of 1969, as amended (NEPA). The purpose of the EA is to analyze potential effects to physical and biological resources and social and economic conditions that may result from revisions to the special regulation for the management of gray wolves introduced as nonessential experimental populations in the northern Rocky Mountains. Furthermore, the EA serves to assist in deciding whether the proposed action has a significant impact on the human environment. If we determine that the proposed action results in a significant impact, we will prepare an

environmental impact statement (EIS). Additionally, the EA describes the alternatives to the proposed revisions, affected environment, and environmental consequences of each of the alternatives.

### Background

On November 22, 1994, the Service designated unoccupied portions of Idaho, Montana, and Wyoming as two nonessential experimental population areas for the gray wolf (59 FR 60252) under section 10(j) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). These special rules also provided management flexibility to address potential negative impacts and concerns regarding wolf reintroduction. In 1995 and 1996, the Service reintroduced gray wolves into the two experimental population areas.

This reintroduction and accompanying management programs greatly expanded the numbers and distribution of wolves in the northern Rocky Mountains. By the end of 2000, the northern Rocky Mountain population met its numerical and distributional recovery goals and continued to exceed it through 2006.

On January 6, 2005, the Service published a revised nonessential experimental population special rule increasing management flexibility for these populations (70 FR 1286; 50 CFR 17.84(i) and (n)). The 2005 special rule included a mechanism for States and Tribes to resolve conflicts when wolves were the primary cause of “unacceptable impacts” to wild ungulate populations. Our definition of “Unacceptable impact” set a threshold that has not provided the intended flexibility to allow States and Tribes to resolve conflicts between wolves and ungulate populations.

In order to set a more reasonable standard, the Service is proposing to redefine the term “Unacceptable impact” to achieve the intended management flexibility (72 FR 36942). Under the proposed definition, lethal

control of wolves would be allowed if wolves are among the major causes of unacceptable impacts to ungulate populations, rather than wolf predation being the primary cause as in the 2005 special rule.

A State or Tribe must have a Service-approved post-delisting wolf management plan in place before proposing to lethally control wolves that are among the major causes of unacceptable impacts to ungulate populations. The State or Tribe then must prepare a science-based document that describes: (1) What data indicate that the ungulate herd is below management objectives, (2) what data indicate the impact of wolf predation on the ungulate population, (3) why wolf removal is a warranted solution to help restore the ungulate herd to State or Tribal management objectives, (4) the level and duration of wolf removal being proposed, and (5) how the State or Tribe will measure ungulate population response to wolf removal. The document also must identify possible remedies or conservation measures in addition to wolf removal. The State or Tribe must provide the opportunity for peer review and public comment on its proposal before submitting it to the Service. The Service then would determine whether such actions are scientifically based and would not reduce the wolf population below 20 breeding pair and 200 wolves in the state before authorizing lethal wolf removal.

The Service also proposes to allow legally present private citizens to take wolves that are in the act of attacking their “stock animals” (including horses, mules, donkeys, and llamas used to carry people or possessions) or dogs on private and public land (72 FR 36942, July 6, 2007).

### National Environmental Policy Act

The draft EA describes the purpose of, and need for, the proposed modifications to the 2005 10(j) special regulation, the Proposed Action and

alternatives, and an evaluation of the direct, indirect, and cumulative effects of the alternatives under the requirements of NEPA. The scope of the draft EA includes issues and resources within areas of the two nonessential experimental populations of the gray wolf in the northern Rocky Mountains.

The Service will use the EA to decide whether or not the 2005 10(j) special regulation will be modified as proposed, if the Proposed Action requires refinement, or if further analyses are needed through preparation of an EIS. If the Proposed Action as described, or with minimal changes, is selected and no further environmental analyses are needed, we will issue a Finding of No Significant Impact for the EA. The Service’s analyses in the draft EA indicate that no significant impacts are likely to occur to wolf populations, ungulate populations, associated ecosystems, or socio-economic factors as a result of the proposed action.

The alternatives that the Service has considered include the following: (1) Alternative A (No Action Alternative); (2) Alternative B (Proposed Action and Preferred Alternative), which modifies the 2005 special regulation, establishing a more flexible definition of “Unacceptable impact” on ungulate populations resulting from wolf activity. Further modification is proposed to allow private citizens to take wolves that are in the act of attacking their stock animals or dogs; and (3) Alternative C, which modifies the definition of “Unacceptable impact” as in Alternative B, but not to include the modification regarding wolves in conflict with stock animals and dogs.

**Authority:** 16 U.S.C. 1531 *et seq.*; 83 Stat. 852; 42 U.S.C. 4321 *et seq.*

Dated: August 31, 2007.

**Jim Mosher,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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