

regulations that govern take of wolves within these geographic areas (codified at 50 CFR 17.84(i) and (k)). (Refer to *Currently Designated Nonessential Experimental Populations of Gray Wolves*, section below, for more details.) We have received several petitions during the past decade requesting consideration to delist the gray wolf in all or part of the 48 conterminous States. We subsequently published findings that these petitions did not present substantial information that delisting gray wolves in all or part of the conterminous 48 States may be warranted (54 FR 16380, April 24, 1989; 55 CFR 48656, November 30, 1990; 63 FR 55839, October 19, 1998).

On July 13, 2000, we published a proposal (65 FR 43450) to revise the current listing of the gray wolf across most of the conterminous United States (Refer to Map 2 following *Changes from the Proposed Rules* section below). That proposal also included recommended wording for 3 special regulations that would apply to those wolves proposed for reclassification to threatened status. The proposal was followed by a 4-month public comment period, during which we held 14 public hearings and many additional informational meetings in those areas of the country where wolves and people would be most affected by the proposed changes.

Following the development of our July 2000 proposal, but prior to its publication, we received petitions from Mr. Lawrence Krak, of Gilman, Wisconsin, and from the Minnesota Conservation Federation. Mr. Krak's petition requested the delisting of gray wolves in Minnesota, Wisconsin, and Michigan. The Minnesota Conservation Federation requested the delisting of gray wolves in the Western Great Lakes DPS. Because the data reviews that would result from the processing of these petitions would be a subset of the review begun by our July 2000 proposal, we did not initiate separate reviews in response to those two petitions.

Subsequent to our proposal, but after the close of the comment period, we received petitions from Defenders of Wildlife to list gray wolf DPSs in the southern Rocky Mountains, northern California—southern Oregon, and western Washington, and to grant endangered status to gray wolves in those DPSs. Because wolves were already protected as endangered in those areas, we took no action on these petitions. Additionally, there are no wolf populations in those areas, and a DPS cannot be designated for an area that is unoccupied by a population of the species of concern.

Since then, we have received a petition from Mr. Karl Knuchel on behalf of the Friends of Northern Yellowstone Elk Herd Inc. Mr. Knuchel's petition requested the delisting of gray wolves in the Rocky Mountains. Because the data review that would result from the processing of this petition would be a subset of the review begun by this rulemaking, we will not initiate action on this petition until after publication of this rule.

E. Summary of Issues Related to This Final Rule

Purpose and Definitions of the Act

The primary purpose of the Act is to prevent animal and plant species endangerment and extinction. One of the ways the Act does this is to require the Service to identify species that meet the Act's definitions of endangered and threatened species, to add those species to the Federal Lists of Endangered and Threatened Wildlife and Plants (50 CFR 17.11 and 17.12, respectively), and to plan and implement conservation measures to improve their status to the point at which they no longer need the protections of the Act. When that protection is no longer needed, we take steps to remove (delist) the species from the Federal lists. If a species is listed as endangered, we may first reclassify it to threatened status as an intermediate step before its eventual delisting; however, reclassification to threatened status is not required prior to delisting.

Section 3 of the Act provides the following definitions that are relevant to this rule:

Endangered species—Any species which is in danger of extinction throughout all or a significant portion of its range;

Threatened species—Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range; and

Species—Includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. (See additional discussion in the Distinct Population Segments Under Our Vertebrate Population Policy section, below.)

Distinct Population Segments Under Our Vertebrate Population Policy

The Act's definition of the term "species" includes "any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." On February 7, 1996, we, in conjunction with the

National Marine Fisheries Service, adopted a policy governing the recognition of distinct population segments (DPSs) for purposes of listing, reclassifying, and delisting vertebrate species under the Act (61 FR 4722). This policy, sometimes referred to as the "Vertebrate Population Policy," guides the Services in recognizing DPSs that satisfy the definition of "species" under the Act. To be recognized as a DPS, a group of vertebrate animals must satisfy tests of discreteness and significance.

To be considered discrete, a group of vertebrate animals must be markedly separated from other populations of the same taxon by physical, physiological, ecological, or behavioral factors or by an international governmental boundary that coincides with differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms. A population does not have to be completely isolated by such factors from other populations of its parent taxon in order to be considered discrete.

The significance of a potential DPS is assessed in light of its importance to the taxon to which it belongs. Evidence of significance includes, but is not limited to, the use of an unusual or unique ecological setting; a marked difference in genetic characteristics; or the occupancy of an area that, if devoid of the species, would result in a significant gap in the range of the taxon.

If a group of vertebrate animals is determined to be both discrete and significant, it is then evaluated to determine whether it meets the definition of threatened or endangered based on the five listing factors (section 4(a)(1) of the Act). If it is recovered, a DPS can be delisted.

Although the Vertebrate Population Policy does not allow State or other intra-national governmental boundaries to be used in determining the discreteness of a potential DPS, a State boundary may be used as a boundary of convenience in order to clearly identify the geographic area included within a DPS designation when the State boundary incidentally separates two DPSs that are judged to be discrete on other grounds.

It is important to note that a DPS is a listed entity under the Act, and is treated the same as a listed species or subspecies. It is listed, protected, subject to interagency consultation, and recovered just as any other threatened or endangered species or subspecies. A DPS frequently will have its own recovery plan and its own recovery goals. As with a species or subspecies, a DPS recovery program is not required to seek restoration of the animal