

throughout the entire geographic area of the listed entity, but only to the point at which it no longer meets the definition of a threatened or endangered species.

Distinct Population Segments and Experimental Populations

The Act does not provide a definition for the term "population." However, the Act uses the term "population" in two different concepts—distinct population segments and experimental populations. These two concepts were added to the original Act at different times and are used in different contexts. The term "distinct population segment" is part of the statutory definition of a "species" and is significant for listing, delisting, and reclassification purposes, under section 4 of the Act. Our Vertebrate Population Policy (61 FR 4722; February 7, 1996) defines a DPS as one or more groups of members of a species or subspecies within a portion of that species' or subspecies' geographic distribution that meets established criteria regarding discreteness and significance. Congress included the DPS concept in the Act, recognizing that a listing, reclassification, or delisting action may, in some circumstances, be more appropriately applied over something less than the entire area in which a species or subspecies is found or was known to occur in order to protect and recover organisms in a more timely and cost-effective manner.

In contrast, Congress added the experimental population concept to give the Secretary another tool to aid in the conservation of "species" (i.e., species, subspecies, or DPSs) that have already been listed under the Act. The Act also requires that an experimental population must be geographically separate from existing populations of the species. The term "population" as used in the experimental population program is necessarily a flexible concept, depending upon the organism involved and its biological requirements for successfully breeding, reproducing, and establishing itself in the reintroduction area.

For purposes of gray wolf reintroduction by means of experimental populations in central Idaho and Yellowstone National Park, we needed to examine the biological characteristics of the species to determine if the reintroduced wolves would be geographically separate from other gray wolf populations. We defined a wolf population to be two breeding pairs, each successfully raising two or more young for two consecutive years in a recovery area (Service 1994a). This wolf population definition was used to

evaluate all wolves in the northern U.S. Rocky Mountains to determine if, and where, gray wolf populations might exist. We determined that gray wolves in northwestern Montana qualified as a wolf population under this definition and that this population was geographically separated from the potential experimental population areas. We therefore designated the two experimental population areas and began gray wolf reintroductions to establish the two experimental populations.

Because of these different purposes for experimental populations and distinct population segments, a DPS can contain several experimental populations, or a combination of experimental and nonexperimental populations.

Refer to the *Designation of Distinct Population Segments* section below, for further discussion and analysis of how our Vertebrate Population Policy has been applied in this rule.

F. Currently Designated Nonessential Experimental Populations of Gray Wolves

Section 10(j) of the Act gives the Secretary of the Interior the authority to designate populations of listed species that are reintroduced outside their current range, but within their probable historical range, as "experimental populations" for the purposes of promoting the recovery of those species by establishing additional wild populations. Such a designation increases our flexibility in managing reintroduced populations, because experimental populations are treated as threatened species under the Act. Threatened status, in comparison to endangered status, allows somewhat more liberal issuance of take permits for conservation and educational purposes, imposes fewer permit requirements on recovery activities by cooperating States, and allows the promulgation of special regulations that are consistent with the conservation of the species.

For each experimental population, the Secretary is required to determine whether it is essential to the continued existence of the species. If the Secretary determines that an experimental population is "nonessential," then for the purposes of section 7 of the Act (Interagency Cooperation), the population is treated as a species proposed to be listed as a threatened or endangered species, except when the population occurs within areas of the National Wildlife Refuge System or the National Park System. Proposed species are subject to the advisory section 7(a)(4) conference process rather than

the formal section 7(a)(2) consultation process.

The Secretary has designated three nonessential experimental population areas for the gray wolf, and wolves have subsequently been reintroduced into these areas. These nonessential experimental population areas are the Yellowstone Experimental Population Area, the Central Idaho Experimental Population Area, and the Mexican Wolf Experimental Population Area. The first two of these are intended to further the recovery of gray wolves in the northern U.S. Rocky Mountains, and the third is part of our Mexican wolf recovery program, as described in their respective recovery plans (Service 1982, 1987) (Refer to Map 1, after the *Changes from the Proposed Rules* section below.)

The Yellowstone Experimental Population Area consists of that portion of Idaho east of Interstate Highway 15; that portion of Montana that is east of Interstate Highway 15 and south of the Missouri River from Great Falls, Montana, to the eastern Montana border; and all of Wyoming (59 FR 60252; November 22, 1994).

The Central Idaho Experimental Population Area consists of that portion of Idaho that is south of Interstate Highway 90 and west of Interstate 15; and that portion of Montana south of Interstate 90, west of Interstate 15, and south of Highway 12 west of Missoula (59 FR 60266; November 22, 1994).

The special regulations for these two experimental populations allow flexible management of wolves, including authorization for private citizens to take wolves in the act of attacking livestock on private land. These rules also provide a permit process that similarly allows the taking, under certain circumstances, of wolves in the act of attacking livestock grazing on public land. In addition, they allow opportunistic noninjurious harassment of wolves by livestock producers on private and public grazing lands, and designated government employees may perform lethal and nonlethal control efforts to remove problem wolves under specified circumstances.

On January 12, 1998, we established a similar third nonessential experimental population area to reintroduce the Mexican gray wolf into its historical habitat in the southwestern States. The Mexican Gray Wolf Nonessential Experimental Population Area consists of that portion of Arizona lying south of Interstate Highway 40 and north of Interstate Highway 10; that portion of New Mexico lying south of Interstate Highway 40 and north of Interstate Highway 10 in the west and north of the Texas-New Mexico border