

areas were reasonably likely to occur in the foreseeable future. The second purpose was to remove Federal gray wolf protection in some areas of the 48 States where we believed restoration of wolves was unnecessary. Thus, our proposed DPS boundaries were designed to include the areas into which most, but not all, gray wolf dispersal was expected to occur. For example, most dispersing Midwest wolves have moved into the Dakotas, which were included in the proposed Western Great Lakes DPS. The Michigan Upper Peninsula wolf that recently dispersed to northern Missouri moved well outside of the proposed boundary for its DPS, but it is the only Midwestern wolf known to have moved beyond the proposed DPS boundary.

However, as discussed in issue E (below), we have now expanded the areas covered by these gray wolf listings. These new boundaries will provide continued protection under the Act to all gray wolves that disperse to any location within the species' historical range in the conterminous 48 States. A portion of the boundary between the Western DPS and the Southwestern DPS has been moved northward to a location approximately midway between the core recovery populations in the northern Rockies and the Southwest, in order to be consistent with existing gray wolf dispersal data. These final boundaries continue to serve our purpose of including the core recovery areas along with those areas into which wolves from the respective core areas are most likely to disperse. (Refer to the *Changes from the Proposed Rules* section below for additional discussion on DPS boundary changes.)

The expansion of the DPS boundaries does not mean that we intend to broaden our current gray wolf recovery programs to additional areas within the DPS boundaries or that we will initiate new wolf restoration programs. The expansion of these boundaries is being done solely because the Act requires that we maintain the gray wolf's listing in these areas until the species or the DPS is recovered. Recovery within a DPS can be achieved by reestablishing gray wolves in a portion of the DPS at a level and under circumstances that ensure that the population will not become in danger of extinction in the foreseeable future.

E. The Service Should Not Delist Outside of Distinct Population Segments

Issue: We received comments from many individuals and organizations regarding our proposal to remove the Act's protections for the gray wolf in all or parts of 30 States that were outside

of the boundaries of the proposed DPSs. The commenters recommended that gray wolves should not be delisted in areas where they have not recovered and do not currently exist.

Response: Our proposed delisting outside of the proposed DPS boundaries was based on our belief that, because restoration of gray wolves in these areas is unnecessary, and because we have no plans to restore gray wolves in those areas, there was no reason to maintain the Act's protection for any gray wolves that might turn up there. We believed it was reasonable and appropriate to remove any unnecessary Federal regulatory burden, and any perception of such a burden, by removing the listing in those areas. Furthermore, we thought it would be desirable to eliminate any uncertainty in those areas regarding Federal protection for escaped or released captive gray wolves, wolf-dog hybrids, or feral dogs that are mistaken for wolves.

However, further analysis of the Act and implementing regulations has led to our conclusion that the Act does not provide for delisting a species in parts of its listed historical range because restoration of wolves in these areas is unnecessary, even if wolf recovery is proceeding successfully in other areas. Delisting can occur only when a species (or subspecies or DPS) is recovered, when it is extinct, or when the original data or analysis that led to the listing was in error (50 CFR 424.11(d)).

Therefore, we have modified those portions of our proposal that would have delisted the gray wolf in any part of its historical range. This was done by expanding the boundaries of the remaining gray wolf DPSs so they now include all States within the historical range of the gray wolf. This has the biological benefit of continuing Federal protection for all long-distance dispersers that remain within the species' historical range, thus providing them a greater probability of surviving and rejoining the core population in that area, or even joining the population in another gray wolf recovery area.

As discussed above in the *Historical Range of the Gray Wolf* section, we have now delisted the gray wolf in 14 States and in the eastern portions of Oklahoma and Texas. These southeastern and mid-Atlantic States are not included within the boundaries of any listed gray wolf DPS, because they are outside the generally recognized historical range of the gray wolf (Hall 1981). These States should not have been included when the gray wolf was listed at the species level in 1978. Due to their close approximation of Hall's historical range boundaries, we have used State

boundaries and an interstate highway as the boundaries around this delisted area to facilitate law enforcement efforts and public understanding of the areas now included and excluded in the three gray wolf DPSs.

F. The Service Should Delist Gray Wolves in Additional Areas

Issue 1: A large number of comments recommended that we delist gray wolves in areas that we proposed for inclusion in one of the proposed DPSs, and thus would remain listed as threatened, endangered, or part of an experimental population and subject to the protective regulations that apply to it. The reasons for the delisting recommendations include: wolves are common elsewhere (in other areas of the 48 States or in Alaska and Canada) so they are not threatened or endangered; wolves have recovered (in that area or elsewhere) so they should be delisted; wolves are extirpated from the State; and a State can manage a resident species better than the Federal government.

Response: The Act mandates that we identify, list, and protect those species, subspecies, plant varieties, and distinct vertebrate population segments that are threatened or endangered, and that we maintain the listing and protection until the entity is recovered or goes extinct, or until we determine that the original listing was done in error. Unless and until one of these occurs, the entity must remain a threatened or endangered species. Full management authority cannot be returned to States or tribes until recovery has occurred or an erroneous listing is removed.

For vertebrate species, the Act, as implemented by way of our 1996 Vertebrate Population Policy, allows us to use international borders to limit the geographic scope of the threats evaluation that is done when we are considering a species for listing as threatened or endangered. This is appropriate, as it allows us to protect from extirpation within the United States those vertebrate species that might be more common elsewhere (e.g., in Canada or Mexico). This approach has been successfully used for other species that are more common in Canada than in the United States, including the peregrine falcon, grizzly bear, and bald eagle, and we are witnessing similar success with the gray wolf.

In order to determine when a species is recovered, we must evaluate the current status of the species in comparison to recovery goals established for it in its recovery plan. We must also analyze the threats that