

are "no longer appropriate and create an overly complex regulatory structure."

*Response:* One of the alternatives considered in the draft proposal, but not selected for further analysis in that proposal, was removing the NEP designation in the central Idaho and Yellowstone areas, making all the Western DPS threatened, and managing all wolves in the Western DPS under this 4(d) rule. We chose to leave the NEP designations as they are, because in the 1994 rulemaking for the NEPs we stated we did not envision changing them until recovery occurred. In addition, several Federal agencies expressed concern over the potential of having to do section 7 consultation again, and the NEP rules are working well and are understood by most local residents in those areas. Instead, we have tried to make this 4(d) rule very similar to the special rule for the NEPs, thereby standardizing proven successful wolf management strategies throughout the Western DPS. While the NEP rules and this 4(d) rule are separate regulations, they are nearly identical, and they both address most public and agency concerns.

*Issue 2:* The Service should maintain NEP status for wolves that stray beyond NEP borders.

*Response:* Both the DPS and NEP designations are geographically based. Except for those wolves that are in captivity, gray wolves are listed and protected according to where they are located. However, the regulations for the three existing gray wolf NEPs do allow the Service to capture and return wolves known to be from the NEP areas if they move beyond the NEP boundaries. Thus, wolves that stray out of an NEP area can be moved back into the NEP area to further contribute to that recovery program.

Broadly applying all of the provisions of the NEP regulations to wolves that disperse and remain outside the NEPs would be equivalent to expanding the boundaries of the NEP. In our regulations establishing the Rocky Mountain gray wolf NEPs we stated we did not envision changing them until those wolf populations were delisted. We will not make such changes at this time in the absence of biological need and strong public support for such a change. Evidence of such need or support was not forthcoming during the comment period, even though we specifically requested comments on the two northern Rocky Mountain NEP regulations.

However, this final 4(d) rule applies provisions similar to those of the two Rocky Mountain NEPs to wolves outside of the NEPs. Thus, many of the

provisions of the two Rocky Mountain NEPs will now be applied to wolves in the larger Western DPS.

#### *M. Lethal Control of Gray Wolves*

*Issue 1:* We received a number of comments that expressed varying degrees of opposition to the lethal control of gray wolves. Some commenters asked that we prohibit any form of lethal taking of wolves. Other comments supported killing of wolves only in defense of human life. Other viewpoints supported lethal control only if it is carried out by designated government agents, while some commenters feel that lethal control should not occur on public lands. The lethal control of wolves that kill only pets was opposed by some commenters.

*Response:* Current regulations under the Act that apply to both endangered and threatened species (50 CFR 17.21(a)(c)(2), § 17.21(a)(c)(3), § 17.31(a), and § 17.31(b)) provide the authority to lethally take endangered and threatened wildlife under several different scenarios. Furthermore, section 4(d) of the Act allows the promulgation of special regulations for threatened species if we determine that those regulations are "necessary and advisable to provide for the conservation of such species." These special regulations can include provisions for lethal taking of the species, if appropriate. In the case of experimental populations, special regulations can also be promulgated allowing lethal control. The common feature across these various regulations is that lethal take is allowed if it is necessary to protect human life and safety or is necessary for the conservation of the species.

The Service has had gray wolf regulations that allow lethal take under various scenarios in different parts of the country. Those regulations were necessary for wolf conservation, and they were tailored to meet the needs of the differing situations in their respective areas. In all cases they have two purposes: reducing threats, and the perceptions of those threats, to human safety; and reducing conflicts between wolves and humans in order to lessen the likelihood that individuals would act on their own to reduce perceived conflicts, likely leading to the deaths of more wolves than would result from regulated lethal control actions.

We believe the special regulations that have been used in Minnesota to control wolves depredating on livestock and other domestic animals have reduced wolf-human conflicts, have diminished the illegal killing of wolves, and thus have aided the continuing recovery of gray wolves in that State.

The special regulations for Minnesota wolves provide for lethal control by designated government agents when wolf depredation has been verified and is likely to reoccur. These restrictions result in the control, including killing or permanent captivity, of those wolves that are taking domestic animals, but provide protection for wolves that are members of packs that hunt only wild prey. These regulations are biologically sound, and we believe they are consistent with wolf recovery in Minnesota. We have no information that would lead us to suspect that the similar regulations finalized in this rule will interfere with continued wolf recovery in Wisconsin and Michigan.

We are not making any changes to the current lethal control regulations for Minnesota gray wolves. We are allowing similar depredation control activities in most other States in the Eastern DPS, and providing the authority for tribes to salvage wolf parts for spiritual and cultural use and to conduct depredation control actions on reservation land without a Federal endangered/threatened species permit.

We have developed the two special regulations to provide the actions necessary to reduce human conflicts in the Western and Eastern DPSs. Each special regulation is designed to address the unique needs within the respective DPS, and to minimize adverse impacts on wolf recovery. Lethal depredation control is being authorized only to the extent that we believe is necessary to continue the recovery of the wolf populations to meet our recovery goals within those two DPSs.

We are providing lethal depredation control authority to most of the States and tribes within the Eastern DPS, including those States outside of the core recovery States of Minnesota, Wisconsin, and Michigan. (This authority is not being provided to States and tribes east of Ohio). It will be the decision of the respective tribes and States as to whether they want to utilize this authority to kill depredating threatened wolves in those rare incidents of verified depredation in those noncore areas.

In the Western DPS the 4(d) rule allows wolves that have been involved in livestock depredations to be killed by agencies and the public. This take will be highly regulated and is not expected to significantly impact the wolf population. To date about 6 percent of the wolf population in Montana, Idaho, and Wyoming is affected by Service wolf control actions, including lethal control under the continuing authority of the nonessential experimental population regulations. This level of