

additional information on the proposed Northeastern DPS and the associated proposed special regulation. Since that time we have paid particular attention to two important issues—insufficient evidence of a resident population of wolves in the Northeast and the identity of any such wolves and the wolves that historically occupied the Northeast.

Regarding the first issue, despite ongoing efforts by individuals and several conservation organizations, no reliable data support the contention that a population of wild wolves currently exists in the northeastern States. While there were three individual wolves or wolf-like canids killed in Maine and Vermont within the last 10 years, their origins are unknown, and there have been no subsequent confirmed sightings of pairs or packs of wolves. Thus, in view of the lack of reliable data showing that a wolf population exists in this area, we are unable to designate a separate DPS there. We cannot list a DPS when we lack data showing that a population exists.

We believe the second issue—the identity of the recent and historical wolf of eastern North America—remains unresolved. Until scientific data and analysis can conclusively determine which large canid historically occupied the Northeast, we are unable to determine which wolf, if any, would be considered for restoration there. We currently are unconvinced that the gray wolf was not the historical wolf in at least a portion of the Northeast, so we will not delist the gray wolf in that region on the basis of the assumption that it was listed in error. At this time we will maintain the Act's protection by including this geographic area in a threatened Eastern Gray Wolf DPS that also includes the proposed Western Great Lakes DPS and several other States.

Because we are not finalizing a listing of the proposed Northeastern DPS and are not finalizing the proposed 4(d) rule that was intended to provide management flexibility in order to promote wolf restoration within that DPS, we will not further address the many comments that dealt with these issues. However, if we receive reliable information supporting the existence of a northeastern wolf population, or if we subsequently determine that the gray wolf was the historical resident wolf in the Northeast, we could again consider listing a separate gray wolf DPS in the Northeast. At that time we will review all the issues that were raised during this comment period and endeavor to address them in any DPS proposal that we might publish.

S. Use of Scientific Data

Issue 1: A number of commenters stressed that our decision should be based on sound scientific data and analysis. Some of these comments accused us of improperly considering economic, political, or other factors when developing the proposal. We were accused of improperly favoring livestock interests as well as allowing undue influence from environmental organizations.

Response: The commenters are correct in their assertion that our decision should be based on sound scientific data and analysis. The Act clearly requires us to use only scientific and commercial data that are relevant to the five categories of threats that might be affecting the species.

The Service has followed the requirements of the Act in coming to a decision on this final rule. We used the best scientific data available as we developed the proposal, and in this final rule we have updated (and corrected, as described in the Technical Corrections category, above) wolf population and mortality figures wherever appropriate. In addition, newly available scientific data resulted in our decision to not finalize the listing of a Northeastern DPS at this time and to make changes to the proposed special regulation for the Western DPS.

Special interest groups have not had any undue or improper influence on this rulemaking, nor have we considered economic factors in our reclassification decision. Some commenters who expressed such a concern may have come to that conclusion as a result of a misunderstanding of the applicability of our "Policy on Recovery Plan Participation and Implementation Under the Endangered Species Act" (59 FR 34272, July 1, 1994; available at <http://endangered.fws.gov/policy/pol002.html>). That policy states that we will minimize the social and economic impacts of implementing recovery actions and will consider such impacts as we develop recovery plans. However, the Act prohibits such economic considerations during the rulemaking process for listing, reclassification, and delisting actions, and the Administrative Procedures Act prohibits Federal agencies from providing special interest groups any special access to the rulemaking process. This rulemaking has complied with those prohibitions.

Issue 2: The Service should clarify the process by which wolf population estimates are determined.

Response: In the northern Rocky Mountains the wolf population estimate

is primarily derived by counting wolves in packs that contain radio-collared members. The breeding pair count is also estimated by radio telemetry and by counting the number of wolf groups that contain an adult male and an adult female wolf that raise at least two pups that survive until December 31.

Descriptions of the methods used to estimate gray wolf populations in the midwestern States have been added to the sections that describe the recovery progress of gray wolves in that area.

T. Requests for Consideration of Factors Other Than Threats to the Species

Issue 1: We received comments that recommended that decisions on the Act's protections for gray wolves should be based on a wide variety of factors in addition to the threats to the species. These factors include economic considerations (depredation costs, funding for game habitat acquisition and restoration efforts, costs and benefits to local communities, agency budgets), threats (or the lack of threats) to human safety and to pets, impacts on the Carolina Dog, ecological impacts to all native wildlife (and specifically to wild ungulates), the intrinsic value of the species, the ecological benefits provided by wolves, the wolf's role as an indicator species, and ethical concerns.

Response: We understand these concerns and the intensity with which they are felt by the commenters. Economic concerns, threats to humans and domestic animals, ecological effects, and impacts on other species (especially rare and declining species) are all taken into consideration as we develop and implement recovery programs for listed species. However, the Act clearly states that our decisions to list, reclassify, and/or delist a species can only be based on scientific and commercial data that deal with threats to the species and its habitat. These threats are broken into five factors by the Act (section 4(a)(1)), which are individually addressed below. While we recognize that there are many direct and indirect benefits and costs that arise from the listing or delisting of a species, the Act prohibits us from considering any factors except the threats to the species.

Issue 2: When we implement recovery programs for listed predator species, we should, or should not, consider the impact of wolf predation on wild ungulate populations.

Response: When implementing recovery programs for the gray wolf, our 1994 Policy on Recovery Plan Participation and Implementation Under the Endangered Species Act (59 FR 34272) requires that we strive to