

Federal regulatory framework that includes prohibition of take, which is defined broadly under the Act to include killing, injuring, or attempting to kill or injure; prohibition of habitat destruction or degradation if such activities harm individuals of the species; the requirement that Federal agencies ensure their actions will not likely jeopardize the continued existence of the species; and the requirement that we develop and implement a recovery program for the species. In addition, the 1978 designation of critical habitat in Minnesota and Michigan (43 FR 9607) further requires Federal agencies to ensure that their actions do not result in the destruction or adverse modification of the primary constituent elements of the habitat in those designated areas. Many of these protective regulations and conservation measures have substantially improved the status of the gray wolf.

*Eastern DPS.* A June 29, 1998, announcement by then Secretary of Interior Bruce Babbitt and then Service Director Jamie Rappaport Clark described, in part, our intention to propose a delisting of gray wolves in the Western Great Lakes. That intention was based upon our belief that State wolf management plans for Minnesota, Wisconsin, and Michigan would either be completed, or would be sufficiently close to completion, so that our delisting and reclassification proposal could be based on an analysis of the protective mechanisms and management strategies and actions described in those three plans.

In late 1997 the Michigan wolf management plan was completed and received the necessary State approvals. The Wisconsin Natural Resources Board approved the Wisconsin wolf management plan in October of 1999. Our biologists have participated on the teams that developed these two State plans, so we are familiar with their evolution and likely future direction. We believe that these plans provide sufficient information for us to analyze the future threats to the gray wolf population in Wisconsin and Michigan after Federal delisting.

During the 1999 legislative session, the Minnesota Legislature failed to approve a State wolf management plan and regulatory bill that would have allowed us to evaluate the future of the Minnesota wolf population in the event it would be delisted and removed from the protections of the Act. Furthermore, as we finished work on our proposal in mid-February 2000, the Minnesota Legislature had not considered the wolf management bill produced by the MN

DNR in early 2000. Therefore, in contrast to the June 1998 announcement by Babbitt and Clark, we did not propose to delist wolves in the Western Great Lakes. Rather we proposed to reclassify wolves in Wisconsin, Michigan, North Dakota, and South Dakota to threatened, bringing them to the same status that wolves in Minnesota were given in 1978.

The Minnesota Legislature subsequently passed wolf legislation and directed the MN DNR to complete a management plan in conformance with that legislation. MN DNR completed the Minnesota Wolf Management Plan (MN Plan) in early 2001. Although the Minnesota legislation and the MN Plan were not available in time to play a role in our July 2000 reclassification proposal, they will be carefully evaluated as we review all relevant information in preparation for a future proposal to delist gray wolves in the Eastern DPS.

Under this final rule, gray wolves will continue to be protected by the provisions of the Act throughout the Eastern DPS. The regulatory changes in that protection that will take place are twofold: (1) The recovering wolf populations in Wisconsin and Michigan, as well as wild wolves anywhere in the Eastern DPS, now will be protected as a threatened species, rather than as an endangered species; and (2) for the first time wolves in all but the eastern quarter of the DPS will be subject to routine, but limited, lethal depredation control measures under the terms of a special regulation under section 4(d) of the Act.

One change in protection that will result from a reclassification from endangered to threatened was discussed above, under the *Summary of Factors Affecting the Species* section, factor B, *Overutilization for commercial, recreational, scientific, or educational purposes* above. The change stems from the broader authority of Service or State employees, or their designated agents, to take a member of a threatened species without a need to obtain a permit from us. Furthermore, we can issue permits to take threatened species for a wider variety of purposes than for endangered species. The impact of this increased take authority on wolf recovery is believed to be insignificant; additional discussion is found in that earlier section.

The second impact of this reclassification is indirect, and it stems from our ability to implement special regulations under section 4(d) of the Act for threatened, but not endangered, species. We have used that authority to finalize a special regulation for the

lethal control of depredating wolves in much of the Eastern DPS that is very similar to the lethal control currently authorized by the special regulation that has been in effect for Minnesota wolves since December 12, 1985 (50 FR 50792; see also 50 CFR 17.40(d)). That special regulation allows the killing of depredating wolves by certain government employees or agents, subject to several restrictions.

*Depredation Control Programs in the Midwestern States.* Wolves that are injuring and/or killing domestic animals in the Midwest have been controlled in different ways, depending upon their listing status under the Act and their importance to our gray wolf recovery programs. In Minnesota depredating wolves have been lethally controlled under a special regulation, because they are listed as threatened. Section 4(d) of the Act allows lethal take of threatened animals under a special regulation. (Details on the Minnesota depredation control program are provided later in this subsection.)

Depredating wolves in Wisconsin and Michigan, previously listed as endangered and therefore previously not eligible for a section 4(d) special regulation, have been trapped and released in a suitable and unoccupied area at some distance from the depredation location. The goal of this approach was to eliminate future depredations by moving the wolf or wolves to a suitable but vacant area at a location with adequate wild prey, and with minimal or no exposure to domestic animals. However, the results of this approach vary widely. In some cases the wolf will become resident at the new site and will not resume its previous habit of preying on domestic animals. In other cases the wolf attempts to return to its previous territory, continues its depredations of domestic animals at the new site, or is killed by nearby resident wolves. This approach has a greater chance of succeeding if there are several areas of suitable unoccupied habitat from which to choose for release of the wolf, so that a release location can be selected that is very remote from the wolf's previous territory.

However, the rapidly growing wolf populations in both Wisconsin and Michigan make it increasingly difficult to find suitable, but unoccupied, areas into which a depredating wolf can be successfully released. In one recent incident of the capture and translocation of a depredating wolf in Wisconsin, the animal left the release site and had traveled half of the distance back to its capture site before being mistaken for a coyote and shot