

period, or due to additional analysis on our part, several changes were made to the DPSs and the special regulations that we proposed on July 13, 2000 (refer to Maps 2 and 3 below). Some of these changes incorporate components of several of the alternatives that were discussed in our proposal and for which we requested comments. In addition, combining two DPSs and adopting alternate DPS boundaries necessarily resulted in our consideration of including the additional areas under the coverage of the special regulations we proposed under section 4(d) of the Act. The following paragraphs discuss these changes.

Overall, this final rule results in smaller changes in the previously provided protections of the Act than we had recommended in our July 2000 proposal. The final rule contains no changes to the Act's protection of the gray wolf that are more extensive than what we had proposed.

*Combining Proposed Western Great Lakes DPS and Proposed Northeastern DPS*—These two proposed DPSs have been combined into a larger DPS called the Eastern Gray Wolf DPS.

At the time we proposed the listing of a Northeastern Gray Wolf DPS, we were well aware that the taxonomy of wolves in eastern North America was under scrutiny and was potentially subject to revision. We were also aware that evidence for the existence of a wolf population in the Northeast—while increasing in the 1990s—was still insufficient to conclude that a resident gray wolf population existed there. However, at that time we believed the gray wolf likely was the historical wolf in the Northeast, and we expected to receive additional information supporting its continued existence there during the comment period.

Since our proposal was developed, we have received insufficient information to substantiate that a wolf population exists in the area we proposed for a Northeastern DPS. Furthermore, recent molecular genetics work (Wilson *et al.* 2000) advances the view that the wolf currently occurring in nearby southeastern Ontario and eastward into part of Quebec is the purported new canid species *Canis lycaon* and not a gray wolf (*C. lupus*).

Given these two factors—the lack of a current wolf population and the continuing uncertainty about the identity of the historical wolf—at this time, we cannot list a separate gray wolf DPS in the Northeastern States. Because the identity of the historical wolf in the Northeast is still unresolved and the gray wolf has not been ruled out as that entity, we are taking the conservative

approach and are retaining protection for any gray wolves that might remain in, or move to, the Northeastern States by combining this geographic area with the proposed Great Lakes DPS and calling it the Eastern Gray Wolf DPS. The entire Eastern DPS is listed as threatened in recognition of the ongoing successful recovery progress shown by the Midwestern wolf populations.

We will reconsider this issue when we consider any listing, reclassification, or delisting action that affects the Eastern DPS.

*Delisting Only in Areas Where Previously Listed in Error*—The final rule delists the gray wolf in parts or all of 16 eastern and southern States, rather than parts or all of 30 States, as proposed.

We had proposed to delist the gray wolf in parts or all of 30 States, because we believed that gray wolf restoration is not necessary and not feasible in those areas. Therefore, we believed it would be appropriate to remove the Federal regulations pertaining to gray wolves in those areas. Such a change would have no impact on our current gray wolf recovery programs, and it seemed reasonable to remove regulations from those geographic areas where they provided no foreseeable benefits to the species.

However, neither the Act nor its implementing regulations allow the delisting of a portion of a listed species' historical range because restoration is not necessary and not feasible in that area. Delisting can only occur if the listed species is recovered, if the listed species is extinct, or if the original listing was based on data, or data interpretation, that were in error (50 CFR 424.11(d)).

As described in the *Historical Range of the Gray Wolf* section above, the species' historical range did not extend into many southern and eastern States. Therefore, our 1978 listing of the gray wolf throughout the 48 States and Mexico was partially in error. This final rule corrects the 1978 error by delisting the gray wolf in all or parts of 16 southern and eastern States that were not within the species' historical range. The remaining conterminous States and Mexico will remain in one of the listed DPSs until gray wolves in that DPS are recovered, the species becomes extinct, or the area is shown to have been listed in error.

*Retaining Listings for Areas Previously Proposed for Delisting*—California and Nevada have been added to the Western DPS. Nebraska, Kansas, Iowa, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New Jersey, Connecticut, Rhode Island, and Massachusetts have

been added to the Eastern DPS (formerly the Western Great Lakes and Northeastern DPSs). Oklahoma west of Interstate 35 and Texas north of Interstate 40 have been added to the endangered Southwestern DPS that includes parts of the United States and Mexico.

Because we are delisting the gray wolf in 14 fewer States than we proposed, those 14 States must remain part of a listed entity. In general, we have added individual States to the DPS containing the core wolf population from which those States are most likely to receive dispersing gray wolves. For example, on the basis of several cases of probable Minnesota wolves dispersing into the Dakotas (including extreme western south Dakota (Licht and Fritts 1994; Straughan and Fain 2002)), and an absence of any evidence of Rocky Mountain wolves dispersing into those States, we have placed the western boundary of the Eastern DPS at the western borders of the Great Plains States.

Similarly, because of their great distance from core Midwestern wolf populations and their relative proximity to active Southwestern gray wolf recovery areas, western Oklahoma and northern Texas are included in the endangered Southwestern DPS instead of the threatened Eastern DPS. Thus, they retain their previous listing as endangered, as do those gray wolves in the Southwest United States and Mexico. While we believe there is only a low likelihood that wolves from New Mexico or Arizona will disperse to northern Texas or western Oklahoma, it is even less likely that Midwestern wolves will disperse there.

The entire States of California and Nevada have been added to the Western DPS. The northern portions of these States are a relatively short distance from the existing and expanding gray wolf populations in Idaho and Wyoming, and wolves dispersing from those populations have already moved to locations only a short distance from the California and Nevada State lines. Dispersal into California and Nevada may have already occurred, but has not yet been verified. Thus, the northern portions of these two States clearly belong in the Western DPS. While it may appear from a superficial consideration of a map and the known dispersal distances of wolves in other areas (refer to the following section for additional discussion) that Southwestern (Mexican) wolves are more likely to disperse to southern California and Nevada than are northern U.S. Rockies wolves, we do not believe this is necessarily correct. The Colorado