

Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened wildlife under certain circumstances. Regulations governing permits are at 50 CFR 13, 17.22, 17.23, and 17.32. For endangered species such permits are available for scientific purposes, to enhance the propagation or survival of the species, for incidental take in connection with otherwise lawful activities, and/or for economic hardship. For threatened species such permits are also available for zoological exhibition, educational purposes, and/or for special purposes consistent with the purposes of the Act, but not for economic hardship.

Questions regarding whether specific activities may constitute a violation of section 9 should be directed to the nearest regional or Ecological Services field office of the Service. Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to any Service Regional Office or to the Washington headquarters office. The location, address, and phone number of the nearest regional or Ecological Services field office may be obtained by calling us at 703-358-2171 or by using our World Wide Web site at: <http://www.fws.gov/where/index.html>.

This final rule is not an irreversible action on our part. Reclassifying either or both of the Eastern and Western DPSs back to endangered status is possible, and will be considered, should changes occur that alter the species' status or significantly increase the threats to the survival of either of these DPSs. Because changes in status or increases in threats might occur in a number of ways, it is unwise at this point to specify criteria that would trigger a reclassification proposal.

#### Required Determinations

*Regulatory Planning and Review, Regulatory Flexibility Act, and Small Business Regulatory Enforcement Fairness*

This rule was subject to Office of Management and Budget review under Executive Order 12866. Because this regulation is not expected to have a significant economic effect, only a qualitative assessment of the potential costs and benefits is included. Because of the added management flexibility provided by the 4(d) regulations, this regulation is expected to result in a small economic gain to some livestock producers within the wolf range.

Currently the vast majority of wolves that occur in the western Great Lakes area are found in the State of Minnesota

where they are listed as threatened. A special regulation exists for Minnesota wolves that allows the Service, the MN DNR, other designated agencies, and their agents to manage wolves to ensure minimal economic impact. That current special regulation allows some direct "take" of wolves. A State program compensates livestock producers up to full market value if they suffer confirmed livestock losses by wolves. The value of the confirmed livestock losses amounted to an annual average of about \$64,000 over the last five years (Paul 2001). Because this new regulation does not affect the existing special regulations for Minnesota wolves, there will be no resulting economic effect on livestock producers or other economic activities in Minnesota.

This regulation reclassifies wolves in Michigan and Wisconsin from endangered to threatened and provides special regulations similar to those already existing for Minnesota, as described above. Thus, specified State, tribal, and Federal agencies and their designated agents will be allowed to kill wolves that have been verified as killing or attacking domestic animals. Under the normal protections of the Act, that is, without the benefit of these special regulations for Michigan and Wisconsin, permits would be required. This special regulation benefits the small percentage of livestock producers in wolf range in Michigan and Wisconsin that experience wolf attacks on their animals. Since only about 1.2 percent of livestock producers in nearby Minnesota, where the wolf population is much greater (Minnesota contains more than 2,500 wolves, while Wisconsin and Michigan have 323 and 278 wolves, respectively), are adversely affected annually by wolves, the potential beneficial effect to livestock producers in Michigan and Wisconsin is small, but it may be important to a few producers. In addition, State programs in Michigan and Wisconsin compensate livestock producers if they suffer confirmed livestock losses by wolves. In Wisconsin, compensation is paid at full market value. Until recently, MI DNR provided partial compensation, but now is paying full compensation with the assistance of the International Wolf Center, Defenders of Wildlife, and other private funding sources. The net effect of the reclassification and 4(d) rule to livestock producers in Michigan and Wisconsin is that the control of depredating wolves will become more efficient and effective, thus reducing the economic burden of livestock producers resulting from wolf recovery in those States. Similar positive, but

geographically scattered and minor, economic benefits will occur for livestock producers in the other Eastern DPS States west of Pennsylvania where this new 4(d) rule will also apply.

The majority of wolves in the West are protected under nonessential experimental population designations that cover Wyoming, most of Idaho, and southern Montana and that treat wolves as threatened species. A smaller, but naturally occurring population of about 84 wolves is found in northwestern Montana. The wolves with the nonessential experimental population designations were reintroduced into these States from Canada. Special regulations exist for these experimental populations that allow government employees and designated agents, as well as livestock producers, to take problem wolves. Because this final rule does not change the nonessential experimental designation or associated special regulations, it will have no economic impact on livestock producers or other entities in these areas. However, the naturally occurring wolves in northwestern Montana (outside of the nonessential experimental population areas) and wolves that may occur in other western States are now reclassified from endangered to threatened status. Under normal protections of the Act, that is, without the benefit of special regulations hereby put into place for the western States not included in the nonessential experimental designation, permits would be required for nearly all forms of take of these wolves. For example, prior to this final rule a private landowner on his or her own land in northwestern Montana could not take a wolf in the act of attacking livestock. This final rule allows such take without a permit. The reduction of the restrictions on taking problem wolves will make their control easier and more effective, thus reducing the economic losses that result from wolf depredation on livestock and guard animals and dogs. Furthermore, a private program compensates livestock producers if they suffer confirmed livestock losses by wolves. Since 1996, average compensation for livestock losses has been slightly over \$10,000 in each recovery area per year. The potential effect on livestock producers in western States outside of the experimental population is small, but more flexible wolf management will be entirely beneficial to their operation.

We have delisted the gray wolf in all or parts of 16 States in this final rule, because this area is outside of the historical range of the gray wolf. These areas currently contain no wolves, and