

Our evaluation of the future threats to the gray wolf in the Eastern DPS, especially those threats to wolves in the Midwest that would occur after removal or reduction of the protections of the Act, will be partially based upon the wolf management plans and assurances of the States and tribes in that area. If the gray wolf is federally delisted, then State and tribal wolf management plans will be the major determinants of wolf protection and prey availability, will set and enforce limits on human utilization and other forms of taking, and will determine the overall regulatory framework for conservation of gray wolves.

State and tribal gray wolf management plans, to the extent that they have been developed, serve as significant indicators of public attitudes and agency goals, which, in turn, are evidence of the probability of continued conservation after protection under the Act is removed. Such indicators of attitudes and goals are especially important in assessing the future of a species that was officially persecuted by government agencies as recently as 40 years ago and still is reviled by some members of the public.

All three Midwestern States with wolf populations (Minnesota, Wisconsin, and Michigan) have completed wolf management plans. We believe that these plans provide sufficient information for us to analyze the future threats to the Eastern Gray Wolf DPS that will exist after Federal delisting. We will consult with Native American tribes and organizations to further discuss and evaluate their wolf management and protection plans prior to issuing a proposed delisting rule.

We recognize that large portions of the historic range, including potentially still-suitable habitat within the Eastern Gray Wolf DPS, are not currently occupied by gray wolves. We emphasize that our proposal to delist gray wolves in the Eastern DPS will be based on the current status of, and threats faced by, the existing wolf populations within this DPS. This approach is consistent with the 9th Circuit Court's decision in *Defenders of Wildlife et al. v. Norton et al.*, where the Court noted that "[a] species with an exceptionally large historical range may continue to enjoy healthy population levels despite the loss of a substantial amount of suitable habitat." Similarly, we believe that when a listed species has recovered to the point where it is no longer in danger of extinction, or likely to become endangered in the foreseeable future, throughout all or a significant portion of its current range, it is appropriate to delist the species even if a substantial

amount of the historical range remains unoccupied.

The wolf's progress toward recovery in the Eastern Gray Wolf DPS, together with our preliminary determination that management of threats to the wolf within the DPS will be adequate, enables us to propose delisting in the near future.

#### Post-Delisting Monitoring

Upon removal of a species from the List of Endangered and Threatened Wildlife, section 4(g)(1) of the Act requires that the Secretary of the Interior, through the Service, implement a monitoring program in cooperation with the States for not less than 5 years for all species that have been recovered and delisted. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If at any time during the post-delisting monitoring program, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

In anticipation of delisting this species, we also announce our intent to work with State resource agencies, tribes, and other partners to design an effective post-delisting monitoring program for the Eastern Gray Wolf DPS to be implemented upon delisting. A proposed post-delisting monitoring plan will be provided in the proposed rule for delisting the Eastern Gray Wolf DPS.

#### Effects of This Advance Notice of Proposed Rulemaking

This ANPR announces our intent to propose rulemaking removing protections afforded to gray wolves in the Eastern Gray Wolf DPS under the Act. If we make a final decision to delist the gray wolf in the Eastern DPS, the prohibitions and conservation measures provided by the Act would no longer apply to this DPS, and the critical habitat designation in the Eastern Gray Wolf DPS would be removed. Therefore, taking, interstate commerce, import, and export of gray wolves in the Eastern Gray Wolf DPS would no longer be prohibited under the Act once the DPS is delisted. In addition, Federal agencies would no longer be required to consult with us under section 7 of the Act to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of gray wolves in the Eastern Gray Wolf DPS or destroy or adversely modify designated critical habitat.

Until the Eastern Gray Wolf DPS is delisted, the take and use of gray wolves

in the Eastern Gray Wolf DPS must comply with the Act and all other existing Federal, State, and local laws. Upon delisting, we anticipate that State and tribal gray wolf management plans, along with other appropriate Federal, State, and local laws and regulations, would guide gray wolf management in the Eastern DPS area.

This ANPR does not address gray wolves in the Western DPS, Southwestern DPS, or the current nonessential experimental population designations in those two DPSs.

#### No Request for Comment

The Service has not made a final decision as to any potential regulatory matter discussed herein and does not request any public comment on this ANPR. We will be following standard rulemaking procedure and anticipate publishing a proposed rule on the removal of the Eastern Gray Wolf DPS from the List of Endangered and Threatened Wildlife in the near future. A public comment period will open upon publication of the proposed rule in the **Federal Register**, and we anticipate conducting public hearings during the public comment period to discuss the proposed rulemaking with you.

#### References Cited

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#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.