

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AC86

164-94

Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Gray Wolf in Yellowstone National Park in Wyoming, Idaho, and Montana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to reintroduce the gray wolf (*Canis lupus*), an endangered species, into Yellowstone National Park, which is located in Wyoming, Idaho, and Montana. This population would be classified as a nonessential experimental population according to section 10(j) of the Endangered Species Act of 1973, as amended (Act). Gray wolf populations have been extirpated from most of the western United States. They presently occur in a small population in extreme northwestern Montana, and as incidental occurrences of a few wolves in Idaho, Wyoming, and Washington that result from the dispersal of wolves from Montana and Canada. This reintroduction is being proposed to reestablish a viable wolf population in the Yellowstone area, one of three wolf recovery areas that have been identified in the Northern Rocky Mountain Wolf Recovery Plan. Potential effects of this proposed rule were evaluated in an environmental impact statement completed in May 1994. This gray wolf reintroduction would not conflict with existing or anticipated Federal agency actions or traditional public uses of park lands, wilderness areas, or surrounding lands.

DATES: Comments from all interested parties must be received by October 17, 1994.

ADDRESSES: Comments or other information may be sent to: Gray Wolf Reintroduction, U.S. Fish and Wildlife Service, P.O. Box 8017, Helena, Montana 59601. The complete file for this proposed rule is available for inspection, by appointment, during normal business hours at 100 N. Park, Suite 320, Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Mr. Edward E. Bangs, at the above address, or telephone (406) 449-5202.

SUPPLEMENTARY INFORMATION:

Background**1. Legal**

The Endangered Species Act Amendments of 1982, P.L. 97-304, made significant changes to the Endangered Species Act of 1973 (Act) (16 U.S.C. 1531 *et seq.*), including the creation of section 10(j), which provides for the designation of specific populations of listed species as "experimental populations". Under previous authorities in the Act, the U.S. Fish and Wildlife Service (Service) was permitted to reintroduce populations of a listed species into unoccupied portions of its historic range for conservation and recovery purposes. However, local opposition to reintroduction efforts from certain parties concerned about potential restrictions, and prohibitions on Federal and private activities contained in sections 7 and 9 of the Act, reduced the utility of reintroductions as a management tool.

Under section 10(j), a reintroduced population of a listed species established outside of its current range, but within its historic range may be designated, at the discretion of the Secretary of the Interior (Secretary), as "experimental." The Act requires that an experimental population be separated geographically from nonexperimental populations of the same species. Furthermore, an experimental population is treated as a threatened species, except that, solely for section 7 purposes (except for subsection (a)(1)), an experimental population determined not to be essential to the continued existence of a species is treated, except when it occurs in an area within the National Wildlife Refuge System or the National Park System, as a species proposed to be listed under section 4 of the Act. Activities undertaken on private lands are not affected by section 7 of the Act unless they are funded, authorized or carried out by a Federal agency.

Experimental and non-essential designations increase the flexibility for management of a reintroduced population of a listed species. Treatment of such a population as threatened provides the Service with greater latitude in devising management programs than would be possible for an endangered species. While Section 9 of the Act spells out directly the prohibitions that apply for endangered species, Section 4(d) of the Act permits adoption by regulation of prohibitions only to the extent that they are necessary and advisable to promote the

conservation of a species listed as threatened.

In addition, a nonessential experimental population is not subject to the formal consultation requirement of section 7(a)(2) of the Act unless the experimental population occurs on a National Wildlife Refuge or National Park, where the full provisions of section 7 apply. Section 7(a)(1) of the Act applies to nonessential experimental populations, and requires that all Federal agencies use their authorities to conserve listed species. Individual organisms used in establishing an experimental population can be removed from a source or donor population only after it has been determined that their removal itself is not likely to jeopardize the continued existence of the species, and a permit has been issued in accordance with the requirements of 50 CFR 17.22.

In 1967, the timber wolf was listed as a subspecies (*Canis lupus lycaon*) as endangered (32 FR 4001), and in 1973 the northern Rocky Mountain subspecies, as then understood, (*C. l. irremotus*) was also listed as endangered, as was the Texas subspecies (*C. l. monstrabilis*) (38 FR 14678). In 1978, the legal status of the gray wolf in North America was clarified by listing wolves in Minnesota as threatened and other members of the species south of Canada as endangered, without referring to subspecies (43 FR 9607).

2. Biological

This proposal deals with the gray wolf (*Canis lupus*), an endangered species of carnivore that was extirpated from the western portion of the conterminous United States by about 1930. The gray wolf is native to most of North America north of Mexico City, except for the southeastern United States, which was occupied by a similar species, the red wolf (*Canis rufus*). The gray wolf occupied nearly every area in North America that supported populations of hooved mammals (ungulates), its major food source.

Twenty-four distinct subspecies of gray wolf have been recognized in North America. Recently, however, taxonomists have suggested that there are five or fewer subspecies of gray wolf in North America and that the wolves that once occupied the northern Rocky Mountains of the United States belonged to a more widely distributed subspecies than was previously believed.

The gray wolf historically occurred in the northern Rocky Mountains, including mountainous portions of Wyoming, Montana, and Idaho. The

great reduction in the distribution and abundance of this species in North America was directly related to human activities, especially elimination of native ungulates, conversion of wildland into agricultural lands, and extensive predator control efforts by private, State, and Federal agencies. When most wolves in the conterminous United States were eradicated, the natural history of wolves was poorly understood. As were other large predators, it was considered a nuisance and a threat to humans. Today, the gray wolf's role as an important and necessary part of natural ecosystems is better appreciated.

Wolf reproduction was not detected in the Rocky Mountain portion of the United States for a period of about 50 years prior to 1986. At that time, a wolf den was discovered near the Canadian border in Glacier National Park. This event was presumably due to the southern expansion of Canadian wolf populations, and the wolf population in Glacier National Park has steadily expanded to an estimated size of about 65 wolves that now occupy northwestern Montana.

Reproducing wolf populations are not known to occur in Idaho or Wyoming. Wolves occasionally have been sighted in these states, but populations as defined by wolf experts (Service 1994) have not been established. Historical reports suggest that wolves may have produced young there several times in the past. However, based on extensive surveys and interagency monitoring efforts (Service 1994), no wolf population has persisted in these States.

1. Wolf Recovery Efforts

In the 1970s, the state of Montana led an interagency recovery team, established by the Service, that developed a recovery plan for the Northern Rocky Mountain Wolf. That 1980 plan recommended a combination of natural recovery and reintroduction be used to recover wolf populations in the area around Yellowstone National Park (Park) north to the Canadian border, including central Idaho.

A revised recovery plan was approved by the Service in 1987 (Service 1987). It identified a recovered wolf population as being at least 10 breeding pairs of wolves, for 3 consecutive years, in each of 3 recovery areas (northwestern Montana, central Idaho and the Yellowstone area). A population of this size would comprise approximately 300 wolves. The plan recommended natural recovery in Montana and Idaho, and using the experimental-population authority of section 10(j) of the Act to quickly reintroduce wolves to

Yellowstone National Park and to conduct liberal management to address local concerns about their potential negative impacts. If 2 wolf packs did not become established in central Idaho within 5 years, the plan recommended that conservation measures other than natural recovery be considered.

In 1990 (Pub. L. 101-512), Congress directed appointment of a Wolf Management Committee, composed of 3 Federal, 3 State and 4 interest group representatives, to develop a plan for wolf restoration to Yellowstone and central Idaho. That Committee provided a majority, but not unanimous, recommendation to Congress in May 1991. Among the measures recommended was a declaration by Congress directing reintroduction of wolves to Yellowstone National Park, and possibly central Idaho, as a special nonessential experimental population with particularly flexible management by agencies and the public, to resolve potential conflicts. Wolves and ungulates under that plan would be intensively managed by the States with Federal funding and thus implementation costs were estimated to be high. Congress took no action on the Committee's recommendation.

In November 1991 (Pub. L. 102-154), Congress directed the Service, in consultation with the National Park Service and Forest Service, to prepare an environmental impact statement (EIS), that considered a broad range of alternatives on wolf reintroduction to Yellowstone National Park and central Idaho. In 1992 (Pub. L. 102-381), Congress directed the Service to complete the EIS by January 1994 and indicated that the preferred alternative should be consistent with existing law.

The Service formed and funded an interagency team to prepare the EIS. In addition to the National Park Service and Forest Service, the States of Wyoming, Idaho, and Montana, USDA Animal Damage Control, and the Wind River and Nez Perce Tribes participated. The Gray Wolf EIS program emphasized public participation. In the spring of 1992, nearly 2,500 groups or individuals that had previously expressed an interest in wolves were directly contacted and the EIS program was widely publicized by the news media.

In April 1992, a series of 27 "issue scoping" open houses were held in Montana, Wyoming, and Idaho and 7 more in other locations throughout the U.S. The meetings were attended by nearly 1,800 people and thousands of brochures were distributed. Nearly 4,000 people provided their thoughts on issues they felt should be addressed in the EIS. A report describing the public's

comments was mailed to 16,000 people in July 1992.

In August 1992, another series of 27 "alternative scoping" open houses and 3 hearings were held in Wyoming, Montana, and Idaho. Three other hearings were held in Seattle, WA, Salt Lake City, UT, and Washington D.C. In addition, a copy of the alternative scoping brochure was inserted into a Sunday edition of the two major newspapers in Montana, Wyoming, and Idaho (total circulation about 250,000). Nearly 2,000 people attended the meetings and nearly 5,000 comments were received about different ways that wolf recovery might be managed. Public comments reflected the strong polarization that has typified management of wolves. A report on the public's ideas and suggestions was mailed to about 30,000 people in November 1992. In April 1993, a Gray Wolf EIS planning update report was published. It discussed the status of the EIS, provided factual information about wolves, and requested the public to report observations of wolves in the northern Rocky Mountains. It was mailed to nearly 40,000 people that had requested information, residing in all 50 states and over 40 foreign countries.

The public comment period on the draft EIS (DEIS) began on July 1, 1993, and the notice of availability was published July 16. Full DEIS documents were mailed to potentially affected agencies, public libraries, many interest groups and to all who requested the complete DEIS. In addition, the DEIS summary, a schedule of the 16 hearings, and a request to report wolf sightings were printed in a flyer that was inserted into the Sunday edition of 6 newspapers in Wyoming, Montana and Idaho with a combined circulation of about 280,000. In mid-June 1993, the Service sent out a letter to over 300 groups, primarily in Wyoming, Montana, and Idaho, offering a presentation on the DEIS. As a result, 31 presentations were given to about 1,000 people during the comment period on the DEIS.

During the public review period from July 1 to November 26, 1993, on the DEIS, comments were received from over 160,200 individuals, organizations, and government agencies. This degree of public response indicated the strong interest people have in the management of wolves. A summary of the public comments was mailed to about 42,000 people on the EIS mailing list in early March 1994.

The final EIS was filed with the Environmental Protection Agency on May 4, 1994, and a notice of availability was published on May 9, 1994. The reintroduction of nonessential

experimental populations of gray wolves to Yellowstone National Park and central Idaho was the Service's proposed action. The four alternatives considered in detail in the EIS were (1) Natural Recovery (No action), (2) No wolf, (3) Wolf Management Committee, and (4) Reintroduction of Nonexperimental Wolves.

The Record of Decision on the EIS was signed by the Secretary of the Interior on June 15, 1994. The Secretary of Agriculture signed a letter concurring with that decision on July 13, 1994. The decision directed the implementation of the Service's proposed action as soon as practical.

The Service already has an active wolf management program in Montana because of the presence of breeding pairs of wolves. About 65 wolves now occupy northwestern Montana, and most of these occur near the Canadian border. The Montana program monitors wolves to determine their status, encourages research on wolves and their prey, provides accurate information to the public, and controls wolves that attack domestic livestock. Wolf control consists of translocating wolves that depredate on livestock to reduce livestock losses, and to foster local tolerance of nonpredating wolves to promote and enhance the conservation of the species. The control program does not relocate wolves to accelerate the natural expansion of wolves into unoccupied historic habitat. Wolf control includes removal of wolves that attack livestock and, although 19 wolves have been removed in that program, the wolf population in Montana has continued to expand at about 22 percent per year for the past 9 years.

4. Reintroduction Site

The Service proposes to reintroduce wolves into Yellowstone National Park. The Park was proposed as a site for the experimental population area after much deliberation by the Service and others. The Park was selected due to several factors. The vast remote habitats of the Park are under tight Federal controls, and it has high-quality wolf habitat and good potential wolf release sites. It is also distant from the current southern expansion of naturally formed wolf packs in Montana. Thus, any wolf pack documented inside the experimental area would likely result from reintroduction into the Park rather than from natural dispersal from extant wolf populations in Canada or northwestern Montana. The Service is also proposing establishment of a nonessential experimental population of wolves in central Idaho in a separate proposal in today's **Federal Register**.

The Service has determined that the proposed reintroduction effort in the Park has the greatest potential for successful recovery of the gray wolf in the conterminous United States, due to ecological and political considerations (Service 1994). Reintroduction of wolves into the Park will enhance wolf population viability by increasing the genetic diversity of wolves in the Rocky Mountain population, increase genetic interchange between segments of the population, and is projected to accelerate reaching wolf population recovery goals 20 years sooner than under the current natural recovery policy. No critical habitat would need to be designated; millions of acres of public land containing hundreds of thousands of wild ungulates currently provide more than enough habitat to support a recovered population of wolves in the Park and surrounding area.

Gray wolves that are reintroduced into the Park would be placed on Federal lands and classified as a nonessential experimental population. In so doing, the Service would accelerate the recovery of gray wolves in the northwestern United States while reducing local concerns about excessive government regulation of private lands, uncontrolled livestock depredations, big game predation, and the lack of State government involvement in the program.

Establishment of an experimental population of gray wolves in the Park would initiate wolf recovery in one of the three recovery areas described as necessary for recovery of gray wolves in the northern Rocky Mountains. The only alternative site identified at this time, central Idaho, is planned for future reintroduction efforts. There are no existing or anticipated Federal and/or State actions identified for this release site that are expected to have major effects on this experimental population. For all these reasons, and based on the best scientific and commercial data available, the Service finds not only that the release of wolves will further the conservation of this endangered species, but also that the Park constitutes the highest priority reintroduction site that will best serve to further the conservation of this species.

Gray wolves used for the reintroduction effort would be obtained from healthy wolf populations in Canada by permission of the Canadian and Provincial governments. Gray wolves are common in western Canada (tens of thousands) and Alaska (about 7,000) and they are increasing in the Great Lakes area. Thus, the removal of wolves from locations in Canada would

not significantly impact the wolf populations there.

5. Reintroduction Protocol

This wolf reintroduction project is undertaken by the Service in cooperation with the National Park Service; Forest Service; other Federal agencies; potentially affected Tribes; States of Wyoming, Montana, and Idaho; and entities of the Canadian government. The Service would enter into agreements with the Canadian and provincial governments and/or Canadian resource management agencies to obtain wild wolves.

The wolf reintroduction project in Yellowstone National Park would require the transfer of about 45 to 75 wolves from southwestern Canada with assistance by Canadian and Provincial governments. About 15 wild wolves would be captured annually from several different packs over the course of 3-5 years by trapping, darting from helicopters, or net gunning in the autumn and winter. They would be transported to the Park by truck or plane. In the Park, groups of wolves, each consisting of pups and possibly adults from the same packs, would be placed in individual holding pens of about 0.4 hectare (1 acre) size for a period of up to two months to allow for acclimation to the new environment. Acclimation pens would be isolated and provided maximum protection from humans and other animals, and efforts would be made to prevent habituation to people. During acclimation, each animal would be monitored with radiotelemetry to ensure quick retrieval of an animal if necessary. The wolves would be provided carcasses of natural prey taken from the area where they will be released. In addition, the wolves would receive regular veterinary care, including examinations and vaccinations.

In autumn and early winter, about 3 groups of acclimated gray wolf pups, and possibly adult pack members, would be placed in the individual holding pens at about 3 release sites in the Park. The wolves would be kept and fed in these pens until about January 1. At that time, the wolves would be radio collared and released. Food (ungulate carrion) would be provided in the area until the wolves no longer required supplemental feeding. All wolves would be closely monitored each day or two for the first few weeks, and then the frequency of monitoring would gradually be reduced to about weekly. If wolves cause conflicts with humans, they will be recaptured and controlled according to the procedures that have been used with other problem wolves.

Based upon previous experience with movements of wild, relocated wolves, it is questionable whether adults will remain with each other or the pups. The pups would remain in the wild as long as they appeared to be sustaining themselves on carrion or wild prey. Wolf pups should be capable of killing wild prey by January.

The progress of the reintroduction effort would be reviewed periodically, and the success or failure of the release would be determined at least on an annual basis. In addition, the release of wild wolves into the Park would be reviewed and evaluated relative to the effects on the conservation and recovery of the gray wolf in the conterminous United States. If this reintroduction technique appeared successful, it would be repeated for at least three years or until two wild breeding pairs produced at least two young for two consecutive years in the Park. At that time, wolves would be monitored and no further reintroductions would take place unless fewer than 2 litters were produced in a single year.

Subsequent releases would be modified depending upon information obtained during the previous experiments. Utilizing information gained from the initial phase of the project, an overall assessment of the success of the reintroduction would be made after the first year, and for every year thereafter. It is thought that the physical reintroduction phase would be completed within 3-5 years. After the reintroduction of wolves has resulted in two packs raising 2 pups each for 2 consecutive years, the wolf population would be managed to grow naturally toward recovery levels. This reintroduction attempt is consistent with the recovery goals identified for this species by the 1987 recovery plan for the northern Rocky Mountain Wolf.

It is estimated that this program, in conjunction with natural recovery in northwestern Montana and a similar reintroduction into central Idaho, would result in a viable recovered wolf population (ten breeding pairs in each of three recovery areas for three consecutive years) by about the year 2002.

A small portion of Idaho (east of Interstate 15) and Montana (east of Interstate 15 and south of the Missouri River from Great Falls, Montana to eastern Montana border) and all of Wyoming is proposed as an experimental population area for wolf reintroduction into the Park. Private landowners and agency personnel adjacent to the Park will continue to be requested to immediately report any observation of a gray wolf to the Service

or to a Service designated agency. Take of gray wolves by the public would be discouraged by an extensive information and education program and by the assurance that, at least initially, all animals will be monitored with radio telemetry and therefore easy to locate when they leave public lands. The public would be encouraged to cooperate with the Service in the attempt to closely monitor the wolves and quickly resolve any conflicts.

More specific information on conduct of the wolf reintroduction program can be obtained from Appendix 4 "Scientific techniques for the reintroduction of wild wolves" in the environmental impact statement: "The Reintroduction of Gray Wolves to Yellowstone National Park and Central Idaho" (Service 1994).

Status of Reintroduced Populations

This reintroduced population of gray wolves is proposed to be designated as a nonessential experimental population according to the provisions of section 10(j) of the Act. As previously stated, the experimental population of wolves would be treated as a threatened species or species proposed for listing for the purposes of sections 4(d), 7, and 9 of the Act. This enables the Service to propose a special rule that can be less restrictive than the mandatory prohibitions covering endangered species. In the case of the Yellowstone reintroduction, the biological status of the species, and the need for management flexibility in reintroducing the gray wolf has resulted in the Service proposing to designate the reintroduced wolves as "nonessential". The Service has found that the nonessential designation, in concert with protective measures, is necessary to conserve and recover the gray wolf in the Yellowstone ecosystem.

It is anticipated that wolves will come in contact with the human population and domestic animals inside and outside of the Park. Public opinion surveys, public comments on wolf management planning, and the positions taken by elected local, State, and Federal government officials have indicated that wolves can not be reintroduced without assurances that current uses of public and private lands would not be disrupted by wolf recovery activities. The following provisions respond to these concerns. There would be no violation of the Act for unintentional, nonnegligent, and accidental taking of wolves by the public if incidental to otherwise lawful activities, and taking in defense of human life would not be prohibited—provided such takings are reported to the Service or to an authorized agency

within 24 hours. Certain Federal, State, and/or Tribal employees would be authorized by the Service to take wolves needing special care or posing a threat to livestock or property. Livestock owners with grazing allotments on public land and private land owners or their immediate designates would be permitted to harass adult wolves in an opportunistic non-injurious manner on their allotments or private property at any time, provided that such harassment would have to be reported within 7 days to a Service-designated authority.

Under the proposed status, livestock owners or their designates could receive a permit from a Service-designated agency to take (injure or kill) gray wolves that are attacking livestock on permitted public livestock grazing allotments, but only after 6 or more breeding pairs were established in the Park or experimental area. Such take, moreover, would only be permitted after due notification to Service designated agencies, unsuccessful efforts to capture the offending wolf by such agencies, and documentation of additional livestock losses. Private landowners or their designates would be permitted to take (injure or kill) a wolf in the act of wounding or killing livestock on private land. However, physical evidence (wounded or dead livestock) that such an attack occurred at the time of the taking would have to be clearly evident in such instances. Such take would be immediately (within 24 hours) reported to the Service or agencies authorized by the Service for investigation.

Wolves that repeatedly (2 times in a calendar year) attack domestic animals other than livestock (fowl, swine, goats, etc.) or pets (dogs or cats) on private property would be designated as problem wolves and would be moved from the area by the Service or a designated agency. Wolves that depredate on domestic animals after being relocated once after such previous conflicts would be designated chronic problem wolves and be removed from the wild.

It is unlikely that wolf predation on big game populations will be the primary cause for failure of States or Tribes to meet their specific big game management objectives outside National Parks and National Wildlife Refuges. Nor is such predation likely to inhibit wolf population increases. However, if the Service deemed it necessary, wolves from the responsible packs could be translocated to other sites in the experimental area to resolve such predation problems. Wolves could not be deliberately killed to resolve wolf predation conflicts with big game while

the experimental population of wolves were listed. However, such take is expected to be rare and is unlikely to significantly affect the overall rate of wolf recovery. The States and Tribes would define such situations in their Service-approved wolf management plans before such actions could be taken.

Wolves would be moved on a case-by-case basis to enhance wolf recovery in the experimental population area. Generally there would not be attempts to locate and/or move lone wolves dispersing in this area, although this may occur.

Hunting, trapping, and animal damage control activities are regulated inside and outside National Parks and National Wildlife Refuges. Most of the area within the wolf reintroduction area is remote and sparsely inhabited wild lands. There are some risks to wolf recovery that would be associated with take of wolves, other land uses, and various recreational activities. However, these risks are low because take of wolves should occur so infrequently that wolf recovery would not be significantly affected.

The Service finds that the stated protective measures and management practices are necessary and advisable for the conservation and recovery of the gray wolf in the Park. No additional Federal regulations appear to be needed. The Service also finds that the proposed nonessential experimental status is appropriate for gray wolves released in Yellowstone National Park that are taken from wild populations. As discussed above, although once extirpated from its historic range in most of the conterminous United States, the gray wolf is common in western Canada (tens of thousands) and Alaska (about 7,000), and wolves are increasing in the Great Lakes area. The gray wolf has also recently been recovering in a small portion of its range in the western United States. Therefore, taking fewer than 100 wolves from these areas will pose no threat to the survival of the species in the wild.

An additional management flexibility would result from using the nonessential status for wolves introduced into the Park, due to less stringent requirements of section 7 of the Act (interagency consultation) for wolves that may occur outside National Parks and National Wildlife Refuges. Wolves that are part of the nonessential experimental population would be treated as animals proposed for listing, rather than listed, when occurring outside of a National Park or Refuge, and only two provisions of section 7 apply to Federal actions outside

National Parks and Wildlife Refuges: section 7(a)(1), which authorizes all Federal agencies to establish conservation programs; and section 7(a)(4), which requires Federal agencies to confer informally with the Service on actions that are likely to jeopardize the continued existence of the species. The results of a conference are advisory in nature; agencies are not required to refrain from commitment of resources to projects as a result of a conference. There are, in reality, no conflicts envisioned with any current or anticipated management actions of the Forest Service or other Federal agencies in the areas. National Forests are a benefit to the project because they form a buffer to private properties in many areas, and National Forests are typically managed to produce wild animals that would be prey to wolves. The Service finds that there are no threats to the success of the reintroduction project or the overall continued existence of the gray wolf from the less restrictive section 7 requirements associated with the nonessential designation.

The full provisions of section 7 apply to nonessential experimental populations in a National Park or National Wildlife Refuge. The Service, National Park Service, Forest Service or any other Federal agency is prohibited from authorizing, funding, or carrying out an action within a National Park or National Wildlife Refuge that is likely to jeopardize the continued existence of the gray wolf. Pursuant to 50 CFR 17.83(b), section 7 determinations must consider all experimental and nonexperimental wolves as a single listed species for analysis purposes. The Service has reviewed all ongoing and proposed uses of the Parks and Refuges and found none that are likely to jeopardize the continued existence of the gray wolf, nor will they adversely affect the success of the reintroduction program. Potential uses that could adversely affect success are hunting, trapping, animal damage control activities and high speed vehicular traffic. Hunting and trapping and USDA Animal Damage Control programs are prohibited or tightly regulated in National Parks and are closely regulated by State and Federal law and policy in other areas. There are very few paved roads in the proposed reintroduction area and wolf encounters with vehicles are likely to be infrequent. Even most of the unpaved roads are used seasonally, and are on the outside fringes of the reintroduction area. In addition, these unpaved roads typically have low vehicle traffic and are constructed for low speed use.

Location of Experimental Population

The release site for reintroducing wolves will be in Yellowstone National Park. The experimental population area will include all of the State of Wyoming, that portion of Idaho east of Interstate Highway 15, and all the State of Montana east of Interstate Highway 15 and south of the Missouri River east of Great Falls, Montana, to the Montana/North Dakota border. Comments obtained by the Service during review of the DEIS resulted in changing the boundary of the experimental population area to the Missouri River in central Montana (Service 1994). The Missouri River was chosen as the northern boundary because the record of wolf sightings and wolf mortalities indicated that, during the last several decades, wolves have occurred north, but not south of the river. The river may not act as a complete barrier to wolf movements, but current information indicates that, if wolves are found south of the river, they would likely be experimental wolves from the Yellowstone area. Wolves north of the river would likely be naturally dispersing wolves from northwestern Montana or Canada.

The proposed experimental area does not currently support reproducing pairs of wolves nor is it likely to support 2 pairs of naturally dispersing wolves from northwestern Montana within the next 3 years, at which time the reintroduced population should be growing and potentially dispersing into Montana and central Idaho. Except for an established and growing population of gray wolves in northwestern Montana, only gray wolf individuals have been documented in the remainder of the northern Rocky Mountains in the United States. Thus, the Yellowstone National Park reintroduction is consistent with provisions of section 10(j) of the Act that requires that an experimental population be wholly separate geographically from nonexperimental populations of the same species. An occasional, solitary wolf has been reported, killed, or otherwise documented in Idaho, Wyoming, Montana, and other western States, and single packs occasionally have been reported throughout the northern Rocky Mountains. However, these reported wolves and groups of wolves, if all reports are factual, apparently disappeared for unknown reasons and did not establish recoverable "populations" as defined by wolf experts (Service 1994). However, it is possible that prior to 2002, other wolves may appear in the wild, and be attracted to the experimental area by the

presence of the reintroduced wolves, or by other factors. These "new" wolves that appear in the experimental population area might contribute to recovery of the experimental population, and they also would be classified as part of the experimental, nonessential population.

It is anticipated that some wolves may disperse from the experimental area and contribute to wolf recovery in northwestern Montana. If so, these wolves would be classified as endangered, as in the case of wolves that recolonized an area near Glacier National Park in 1982. It is also possible, but not probable, that during the next 3 years, movements between recovery areas would result in some genetic exchange between wolves resulting from natural recovery and those resulting from the reintroduction. It is not anticipated that such exchange will significantly affect the rate of recovery in the Yellowstone National Park experimental population area.

For the purposes of establishment of this experimental population, the Service has determined that there is no existing wolf population in the recovery area that would preclude reintroduction and establishment of an experimental population in Yellowstone National Park. A wolf population is defined as at least two breeding pairs of naturally occurring gray wolves that successfully raise at least two young to December 31 of their birth year for two consecutive years (Service 1994). If a wolf population were discovered in the proposed recovery area, no reintroduction would occur. Instead, the success of the naturally occurring wolf population would be monitored to determine if population recovery was continuing. If this event occurs before the effective date of the experimental population rule, those wolves would be determined to be, and managed as, endangered wolves under the full authority of the Act. In this case, the experimental rule would not be implemented, and no wolves would be reintroduced in that experimental area. If wolf population growth does not continue, and within 5 years the wolf population has not doubled from the original founding pairs and pups, reintroduction would proceed. Wolves will not be introduced as an experimental population if, prior to introduction of wolves, breeding groups of wolves are discovered. However, once the experimental population rule is established and the reintroduction begun by the actual release of wolves into a recovery area, the experimental population rule would remain in effect until wolf recovery occurs or after a

scientific review indicates that modifications in the experimental rule are necessary to achieve wolf recovery.

If a wolf population (2 breeding pairs successfully raising two young each for two consecutive years) were discovered in the proposed Yellowstone experimental population area, reintroduction under an experimental population rule would not occur into that area and any such wolf population would be managed as a natural recovering population in that area. The boundaries of the proposed experimental population area would be changed, as needed, to encourage recovery of any naturally occurring, breeding wolf population if such natural population is discovered prior to the establishment of the experimental population, and before wolf reintroduction occurs. No experimental population area will contain a portion of the home range of any active breeding pairs of wolves that have successfully raised young. Any changes in the boundaries of the nonessential experimental population area, required because of the above conditions, would be reflected in a final rule.

Utilization of Federal public lands including National Parks and Forests is consistent with the legal responsibility of the National Park Service to sustain the native wildlife resources of the United States, and of the Forest Service and all other Federal agencies under section 7(a)(1) to utilize their authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of endangered species and threatened species.

Management

As previously stated, the nonessential experimental population of gray wolves would be established in the Yellowstone area by introducing gray wolves into Yellowstone National Park under authority of section 10(j) of the Act, as amended. The Yellowstone area includes all of Wyoming and parts of Montana and Idaho that surround the Park. Ongoing wolf monitoring efforts (Service 1994) would continue to document the presence of any wild wolves, and, prior to any reintroduction, the Service would make a determination of the status of any naturally occurring wolf population in this area. Wolves would not be reintroduced into the Park if a wolf population is documented in the recovery area. After introduction has been completed according to the Reintroduction Protocol (section 5 above), management of the experimental population will begin.

The National Park Service will be the primary agency implementing the

experimental population rule inside the boundaries of National Parks. The States of Wyoming, Montana, and Idaho, and potentially affected Tribes will be encouraged to enter into cooperative agreements for management of the gray wolf in the Park. These cooperative agreements would be reviewed annually by the Service to ensure that the States and Tribes have adequate regulatory authority to conserve listed species, including the gray wolf. It is anticipated that the States and Tribes will be the primary agencies implementing this experimental population rule outside National Parks and National Wildlife Refuges. The Service will provide oversight, coordinate wolf recovery activities, and provide technical assistance. If the States and Tribes do not assume wolf management responsibilities, the Service would do so, as needed.

Management of the reintroduced wolves would allow wolves to be killed or moved under some conditions by Service authorized Federal, State, and Tribal agencies for domestic animal depredations and excessive predation on big game populations. Under some conditions, the public could harass or kill wolves attacking livestock (cattle, sheep, horses, and mules). There would be no Federal compensation program, but compensation from existing private funding sources would be encouraged. There would be no land-use restrictions applied when 6 or more wolf packs were documented in the experimental population area because sufficient wolf numbers would be available and no restrictions around den sites or other critical areas would be necessary to promote wolf recovery. Enhancement of prey populations would be encouraged. Use of toxicants lethal to wolves in areas occupied by wolves would still be prohibited by existing labeling restrictions.

Wolves have a relatively high reproductive rate and, with 6 packs of wolves present in a population, about 20-25 pups could be born each year to greatly compensate for mortality which would result from management actions. The Service believes that a possible 10 per cent loss of wolves could occur due to control actions and an additional 10 per cent loss could occur from other mortality sources. However, once the number of introduced wolves has reached the goal of 6 wolf packs, the reproductive output of 6 packs of wolves would provide for a wolf population increasing at or near 22 per cent per year. This increase in numbers should easily accommodate more flexible wolf management to further address local concerns and resistance to

wolf recovery efforts, and reduce the need and costs of agency actions to resolve wolf/human conflicts. Closely regulated public control also can more effectively focus on individual problem wolves as conflicts occur rather than hours or days after a problem is documented. Agency control actions would more likely target groups of wolves that contain problem individuals, whereas public control could be focused on individual problem wolves.

The Service, or States and Tribes if authorized, may move wolves that are having unacceptable impacts on ungulate populations in the unlikely event that those impacts would inhibit wolf recovery. Wolves could be moved to other places within the experimental population area. Two examples are where wolf predation is dramatically affecting prey availability because of unusual habitat or weather conditions (e.g., bighorn sheep in areas with marginal escape habitat) or where wolves cause prey to move onto private property and mix with livestock, increasing potential conflicts. The States and Tribes will define such unacceptable impacts, how they would be measured, and identify other possible mitigation in their State or Tribal management plans. These plans would be approved by the Service through cooperative agreement before such control could be conducted. Wolves would not be deliberately killed to address ungulate-wolf conflicts. These unacceptable impacts would be identified in State and Tribal wolf management plans and developed in consultation with the Service. If such control by the States or Tribes were likely to be significant or beyond the provisions of the experimental rule as determined by the Service, then they would be specifically incorporated as part of an amendment to this experimental rule, which would be adopted following national public comment and review.

Management of wolves in the experimental population would not result in any major change in existing private or public land-use restrictions (except at containment facilities during reintroduction) after 6 breeding pairs of wolves are established in this experimental area. When 5 or fewer breeding pairs are in this experimental area, land-use restrictions could be employed on an as needed basis, at the discretion of land management and natural resources agencies to control intrusive human disturbance. Temporary restrictions on human access, when 5 or fewer breeding pairs are established, may be required near

active wolf den sites between April 1 and June 30.

The Service, or Federal, State or Tribal agencies authorized by the Service would be allowed to promptly remove any wolf of the experimental population that the Service, or agency authorized by the Service, determined was presenting a threat to human life or safety. Although not a management option *per se*, it is noted that a person could legally kill or injure wolves in response to an immediate threat to human life. The incidental and accidental nonnegligent take in the course of otherwise lawful recreational activity, or take in defense of human life, would be permitted by the Service and Service-authorized agencies, provided that such taking is immediately (within 24 hours) reported to the authorized State or Federal authority.

The Service or State, Federal, or Tribal agencies designated by the Service will control wolves that attack livestock (cattle, sheep, horses, and mules) by management measures that may include aversive conditioning, nonlethal control, and/or moving wolves when 5 or fewer breeding pairs are established, and by previously described measures. However, killing wolves or placing them in captivity may be considered and used as management options after 6 or more breeding pairs are established in the experimental population area. For depredation occurring on public land and prior to 6 breeding pairs becoming established, depredating females and their pups would be released on site prior to October 1. Wolves on private land under these circumstances would be moved. Wolves that attack other domestic animals and pets on private land 2 times in a calendar year would be moved. Chronic problem wolves (wolves that depredate on domestic animals after being moved for previous domestic animal depredations) would be removed from the wild.

The Service, other Federal agencies, and Tribal and State Wildlife Agency personnel would be additionally authorized and should be prepared to take wolves under special circumstances where there was an immediate threat to livestock or property, or a need to move individuals for genetic purposes. Wolves could be captured alive and translocated to resolve demonstrated conflicts with State big-game management objectives or when they were outside designated wolf pack recovery areas. Take procedures in such instances would involve live capture and removal to a remote area, or if the animal is clearly

unfit to remain in the wild, return to a captive facility. Killing of animals would be a last resort and would be authorized only if live capture attempts fail or there is some clear danger to human life.

The Service and other authorized management agencies would use the following conditions and criteria in determining the problem status of wolves within the nonessential experimental population area:

(1) Wounded livestock or some remains of a livestock carcass must be present with clear evidence (Roy and Dorrance 1976; Fritts 1982) that wolves were responsible for the damage and there must be reason to believe that additional losses would occur if the problem wolf or wolves were not controlled. Such evidence is essential since wolves may feed on carrion they have found while not being responsible for the kill.

(2) Artificial or intentional feeding of wolves must not have occurred. Livestock carcasses not properly disposed of in an area where depredations have occurred will be considered attractants. On Federal lands, removal or resolution of such attractants must accompany any control action. Livestock carrion or carcasses on Federal land, not being used as bait in an authorized control action (by agencies authorized by the Service), must be removed, buried, burned, or otherwise disposed of so that the carcass(es) will not attract wolves.

(3) On Federal lands, animal husbandry practices previously identified in existing approved allotment plans and annual operating plans for allotments must have been followed.

Final Federal responsibility for protection of gray wolves in the experimental population under provisions of the Act would cease after:

(1) A minimum of 10 breeding pairs are documented for three consecutive years in each of the three recovery areas presented by the revised wolf recovery plan (Service 1987), and evaluated by the environmental impact statement (Service 1994), providing that legal mechanisms are in place to conserve this population, and (2) gray wolves in Montana, Idaho, and Wyoming are delisted according to provisions of the Act. The Act specifies that the status of a species must be monitored for a 5-period after delisting. If, after delisting, the wolf population fell below the minimum criteria of 10 breeding pairs in any recovery area for two of three consecutive years, wolves in that area would be considered for relisting under the Act.

Public Comments Solicited

The Service intends that any final rule resulting from this proposal be as accurate and effective as possible. Therefore, comments or suggestions from the public, States, Tribes, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments must be received within 60 days of publication of the proposed rule in the **Federal Register**.

Any final decision on this proposal will take into consideration the comments and any additional information received by the Service. Such communications may lead to a final rule that differs from this proposal.

The Service will also hold public hearings to obtain additional verbal and written information. Hearings are proposed to be held in Cheyenne, Wyoming; Boise, Idaho; Helena, Montana; Salt Lake City, Utah; Seattle, Washington; and Washington, D.C. The location, dates, and times of these six hearings will be announced in a forthcoming issue of the **Federal Register** and in newspapers.

National Environmental Policy Act

An Environmental Impact Statement under the National Environmental Policy Act has been prepared and is available to the public (see **ADDRESSES**). This proposed rule is an implementation of the proposed action and does not require revision of the environmental impact statement on the reintroduction of gray wolves to

Yellowstone National Park and central Idaho.

Required Determinations

This proposed rule was reviewed by the Office of Management and Budget under Executive Order 12866. The rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Based on the information discussed in this rule concerning public projects and private activities within the experimental population area, significant economic impacts will not result from this action. Also, no direct costs, enforcement costs, information collection, or recordkeeping requirements are imposed on small entities by this action and the rule contains no record-keeping requirements, as defined in the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This rule does not require federalism assessment under Executive Order 12612 because it would not have any significant federalism effects as described in the order.

References Cited

Fritts, S.H. 1982. Wolf depredation on livestock in Minnesota. U.S. Fish and Wildlife Service Resource Publication 145. 11 pp.
 Roy, L.D., and M.J. Dorrance. 1976. Methods of investigating predation of domestic livestock. Alberta Agriculture, Edmonton, Alberta. 53 pp.
 U.S. Fish and Wildlife Service. 1987. Northern Rocky Mountain wolf recovery plan. U.S. Fish and Wildlife Service, Denver, Colorado. 119 pp.

U.S. Fish and Wildlife Service. 1994. Reintroduction of gray wolves to Yellowstone National Park and central Idaho. Final Environmental Impact Statement, Helena, Montana. 608 pp.

Author

The principal author of this proposal is Edward E. Bangs (see **ADDRESSES** section). Harold M. Tyus, Denver Regional Office, served as editor.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h), the table entry for “Wolf, gray” under “MAMMALS” is revised to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *
 (h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Wolf, gray	<i>Canis lupus</i>	Holarctic	U.S.A. (48 conterminous States, except MN and where listed as an experimental population below).	E	1, 6, 13, 15, 35, _____	17.95(a)	NA
Do	do	do	U.S.A. (MN)	T	35 _____	17.95(a)	17.40(d)
Do	do	do	U.S.A. (WY and portions of ID and MT—see. § 17.84()	XN	_____	NA	17.84()

3. § 17.84 be amended by adding paragraph () following the last paragraph to read as follows:

§ 17.84 Special Rules—Vertebrates.

* * * * *
 () Gray wolf (*Canis lupus*).
 (1) The gray wolf (wolf) population identified in paragraph () (6) of this

section is a nonessential experimental population. This population will be managed in accordance with the respective provisions of this section.

(2) No person may take this species in the wild in an experimental population area except as provided in paragraphs () (2), (4), and (7) of this section.

(i) Landowners on their private land and livestock producers (i.e., producers of cattle, sheep, horses, and mules or as defined in State and Tribal wolf management plans as approved by the Service) that are legally using public land (Federal land and any other public lands designated in State and Tribal wolf management plans as approved by the Service) may harass any adult wolf (a wolf that does not exceed 50 lbs in weight is not considered an adult for these purposes) in an opportunistic noninjurious manner at any time, *Provided* that all such harassment is by methods that are not lethal or physically injurious to the gray wolf and is reported within 7 days to the Service project leader for wolf reintroduction or agency representative designated by the Service.

(ii) Any livestock producers on their private land may take (including to kill or injure) adult wolves in the act of killing, wounding, or biting livestock (cattle, sheep, horses, and mules or as defined in State and Tribal wolf management plans as approved by the Service), *Provided* that such incidents must be reported immediately but no later than within 24 hours to the Service project leader for wolf reintroduction or agency representative designated by the Service, and livestock freshly (less than 24 hours) wounded (torn flesh and bleeding) or killed by wolves must be evident. Service or other Service authorized agencies will confirm if livestock were wounded or killed by wolves. The taking of any wolf without such evidence may be referred to the appropriate authorities for prosecution. A gray wolf that does not exceed 50 lbs in weight is not considered an adult and can not be taken.

(iii) Any livestock producer or permittee with livestock grazing allotments on public land may receive a written permit from the Service or other agencies designated by the Service, to take (including to kill or injure) adult wolves that are in the act of killing, wounding, or biting livestock (cattle, sheep, horses, and mules or as defined in State and Tribal wolf management plans as approved by the Service), *Provided* that 6 or more breeding pairs of wolves have been documented in that experimental population area and that the Service or other agencies authorized by the Service has confirmed that the livestock losses have been caused by wolves and has unsuccessfully attempted to resolve the

problem and subsequent livestock losses are documented. Such take must be reported immediately but no later than within 24 hours to the Service project leader for wolf reintroduction or agency representative designated by the Service and livestock freshly wounded or killed by wolves must be evident. Service or other Service authorized agencies will confirm if livestock were wounded or killed by wolves. The taking of any wolf without such evidence may be referred to the appropriate authorities for prosecution.

(iv) The potentially affected States and Tribes may move wolves to other areas within an experimental population area as described in paragraph () (6), *Provided* that the level of wolf predation is having unacceptable impacts on localized ungulate populations and to the extent that those impacts could inhibit wolf recovery. The States and Tribes will define such unacceptable impacts, how they would be measured, and identify other possible mitigation in their State or Tribal wolf management plans. These plans must be approved by the Service through cooperative agreement before such movement of wolves may be conducted.

(v) The Service, or agencies authorized by the Service may promptly remove (place in captivity or kill) any wolf the Service or agency authorized by the Service determines to present a threat to human life or safety.

(vi) Any person may harass or take (kill or injure) a wolf in self defense or in defense of others, *Provided* that all such take is reported immediately (within 24 hours) to the Service reintroduction project leader or Service designated agent. The taking of any wolf without such evidence of an immediate and direct threat to human life may be referred to the appropriate authorities for prosecution.

(vii) The Service or agencies designated by the Service may take wolves that are designated as "problem wolves" (as defined below) that attack livestock (cattle, sheep, horses, and mules or domestic animals or as defined by State and Tribal wolf management plans approved by the Service) by nonlethal measures, including but not limited to: aversive conditioning, nonlethal control, and/or moving wolves when 5 or fewer breeding pairs are established, and by previously described measures. If such measures result in a wolf mortality, it must be demonstrated that such mortality was non deliberate. Lethal control of wolves or placing them in permanent captivity will be allowed only after 6 or more breeding pairs are established in the

experimental population area. For depredations occurring on federally managed lands and any additional public lands identified in State or Tribal wolf management plans and prior to 6 breeding pairs becoming established, depredating female wolves with pups and their pups will be released at or near the site of capture prior to October 1. Wolves on private land under these circumstances will be moved to other areas within the experimental population area. Wolves that attack domestic animals other than livestock, including pets on private land, a total of 2 times in a calendar year will be moved. All chronic problem wolves (wolves that depredate on domestic animals after being moved once for previous domestic animal depredations) will be removed from the wild (killed or placed in captivity). The following three conditions and criteria will apply in determining the problem status of wolves within the nonessential experimental population area:

(A) Wounded livestock or some remains of a livestock carcass must be present with clear evidence that wolves were responsible for the damage and there must be reason to believe that additional losses would occur if the problem wolf or wolves were not controlled. Such evidence is essential because wolves may feed on carrion they have found and may not be responsible for the death of livestock.

(B) Artificial or intentional feeding of wolves must not have occurred. Livestock carcasses not properly disposed of in an area where depredations have occurred will be considered attractants. On Federal lands, removal or resolution of such attractants must accompany any control action. Livestock carrion or carcasses on Federal land, not being used as bait in an authorized control action (by agencies authorized by the Service), must be removed, buried, burned, or otherwise disposed of such that the carcass(es) will not attract wolves.

(C) On Federal lands, animal husbandry practices previously identified in existing approved allotment plans and annual operating plans for allotments must have been followed.

(viii) Any person may take gray wolves found in an area defined in paragraph () (6), *Provided* that, the take is incidental, accidental, unavoidable, unintentional, and not resulting from negligent conduct lacking reasonable due care in the course of otherwise lawful recreational activity, and that such taking is immediately (within 24 hours) reported to the authorized Service or Service-designated authority.

Take that does not conform with such provisions may be referred to the appropriate authorities for prosecution.

(ix) Service or other Federal, State, or Tribal personnel may be additionally authorized in writing by the Service to take animals under special circumstances that pose an immediate threat to livestock or property, or when animals need to be moved for genetic purposes. Wolves may be live captured and translocated to resolve demonstrated conflicts with ungulate populations or with other species listed under the Endangered Species Act, or when they are outside the designated experimental population area. Take procedures in such instances would involve live capture and release to a remote area, or if the animal is clearly unfit to remain in the wild, return to a captive facility. Killing of animals will be a last resort and will be authorized only if live capture attempts fail or there is some clear danger to human life.

(x) Any person with a valid permit issued by the Service under § 17.32 may take wolves in the wild in the experimental population area, pursuant to terms of the permit.

(xi) Any employee or agent of the Service or appropriate Federal, State or Tribal agency, who is designated in writing for such purposes by the Service, when acting in the course of official duties, may take a wolf in the wild in the experimental population area if such action is necessary:

(A) For scientific purposes;

(B) To relocate wolves to avoid conflict with human activities;

(C) To relocate wolves within the experimental population areas to improve wolf survival and recovery prospects;

(D) To relocate wolves that have moved outside the experimental population area back into the experimental population area;

(E) To aid or euthanize sick, injured, or orphaned wolves;

(F) To salvage a dead specimen which may be used for scientific study; or

(G) To aid in law enforcement investigations involving wolves.

(xii) Any taking pursuant to this section must be reported immediately (within 24 hours) to the appropriate Service or Service-designated agency, which will determine the disposition of any live or dead specimens.

(3) Human access to areas with facilities where wolves are confined may be restricted at the discretion of Federal, State, and Tribal land management agencies. When 5 or fewer breeding pairs are in an experimental population area, land-use restrictions may also be employed on an as-needed

basis, at the discretion of Federal land management and natural resources agencies to control intrusive human disturbance around active wolf den sites. Such temporary restrictions on human access, when 5 or fewer breeding pairs are established in an experimental population area, may be required between April 1 and June 30, within 1 mile of active wolf den or rendezvous sites. When 6 or more breeding pairs are established in an experimental population area, no land use restrictions may be employed outside of National Parks or National Wildlife Refuges.

(4) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any wolf or part thereof from the experimental populations taken in violation of these regulations or in violation of applicable State or Tribal fish and wildlife laws or regulations or the Endangered Species Act.

(5) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (1)(2) through (4) of this section.

(6) The site for reintroduction is within the historic range of the species:

(i) The Yellowstone Management area is shown on the following map. The boundaries of the nonessential experimental population area will be that portion of Idaho that is east of Interstate Highway 15; that portion of Montana that is east of Interstate Highway 15 and south of the Missouri River from Great Falls, Montana, to the eastern Montana border; and all of Wyoming.

(ii) {Reserved}

(iii) All wolves found in the wild within the boundaries of this paragraph (1)(6) after the first releases will be considered nonessential experimental animals. In the coterminous United States, a wolf that is outside an experimental area (as defined in paragraph (1)(6) of this section) would be considered as endangered (or threatened if in Minnesota) unless it is marked or otherwise known to be an experimental animal; such a wolf may be captured for examination and genetic testing by the Service or Service-designated agency. Disposition of the captured animal may take any of the following courses:

(A) If the animal was not involved in conflicts with humans and is determined likely to be an experimental wolf, it will be returned to the reintroduction area.

(B) If the animal is determined likely to be an experimental wolf and was involved in conflicts with humans as identified in the management plan for

the closest experimental area it may be relocated, placed in captivity, or killed.

(C) If the animal is determined not likely to be an experimental animal, it will be managed according to any Service approved plans for that area or will be marked and released near its point of capture.

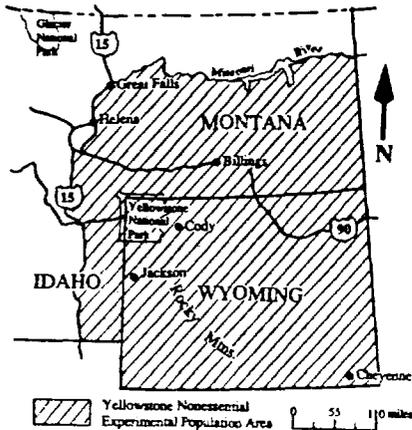
(D) If the animal is determined not to be a wild grey wolf or if the Service or agencies designated by the Service determine the animal shows substantial evidence of recent hybridization with other canids such as domestic dogs or coyotes or of being an animal raised in captivity, it will be returned to captivity or killed.

(7) The reintroduced wolves will be continually monitored during the life of the project, including by the use of radio telemetry and other remote sensing devices as appropriate. All released animals will be vaccinated against diseases and parasites prevalent in canids, as appropriate, prior to release and during subsequent handling. Any animal that is sick, injured, or otherwise in need of special care may be captured by authorized personnel of the Service or Service designated agencies and given appropriate care. Such an animal will be released back into its respective reintroduction area as soon as possible, unless physical or behavioral problems make it necessary to return the animal to captivity or euthanize it.

(8) The status of the experimental population will be reevaluated within the first 5 years after the first year of releases of wolves to determine future management needs. This review will take into account the reproductive success and movement patterns of the individuals released in the area, as well as the overall health of the experimental wolves. Once recovery goals are met for downlisting or delisting the species, a rule will be proposed to address downlisting or delisting.

(9) The Service does not intend to reevaluate the "nonessential experimental" designation. The Service does not foresee any likely situation which would result in changing the nonessential experimental status until the gray wolf is recovered and delisted in the Northern Rocky Mountains according to provisions outlined in the Act.

BILLING CODE 4310-65-P



BILLING CODE 4310-55-C

Dated: August 8, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 94-19998 Filed 8-15-94; 8:45 am]

BILLING CODE 4310-65-P

50 CFR Part 17

RIN 1018-AC87

165-94

Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of the Gray Wolf in Central Idaho Area

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to reintroduce the gray wolf (*Canis lupus*), an endangered species, into central Idaho in order to establish a population of wolves. This population would be classified as a nonessential experimental population according to section 10(j) of the Endangered Species Act of 1973, as amended (Act). Gray wolves have been extirpated from most of the western United States. They presently occur in a small population in extreme northwestern Montana, and as incidental occurrences of a few wolves in Idaho, Wyoming, and Washington that result from the dispersal of wolves from Montana and Canada. This reintroduction is being proposed to reestablish a viable wolf population in the central Idaho area (including a portion of southwestern Montana), one of three wolf recovery areas that have been identified in the Northern Rocky Mountain Wolf Recovery Plan. Potential effects of this proposed rule were evaluated in an environmental impact statement completed in May 1994. This gray wolf reintroduction would not

conflict with existing or anticipated Federal agency actions or traditional public uses of park lands, wilderness areas, or surrounding lands.

DATES: Comments from all interested parties must be received by October 17, 1994.

ADDRESSES: Comments or other information may be sent to: Gray Wolf Reintroduction, U.S. Fish and Wildlife Service, P.O. Box 8017, Helena, Montana 59601. The complete file for this proposed rule is available for inspection, by appointment, during normal business hours at 100 N. Park, Suite 320, Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Mr. Edward E. Bangs, at the above address, or telephone (406)449-5202.

SUPPLEMENTARY INFORMATION:

Background

1. Legal

Amendments of 1982, P.L. 97-304, made significant changes to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), including the creation of section 10(j), which provides for the designation of specific populations of listed species as "experimental populations". Under previous authorities in the Act, the U.S. Fish and Wildlife Service (Service) was permitted to reintroduce populations of a listed species into unoccupied portions of its historic range for conservation and recovery purposes. However, local opposition to reintroduction efforts from certain parties concerned about potential restrictions, and prohibitions on Federal and private activities contained in sections 7 and 9 of the Act, reduced the utility of reintroductions as a management tool.

Under section 10(j), a reintroduced population of a listed species established outside its current range, but within its historic range may now be designated, at the discretion of the Secretary of the Interior (Secretary), as "experimental." The Act requires that an experimental population be separated geographically from nonexperimental populations of the same species. Furthermore, an experimental population is treated as a threatened species, except that, solely for section 7 purposes (except for subsection (a)(1)), an experimental population determined not to be essential to the continued existence of a species is treated, except when it occurs in an area within the National Wildlife Refuge System or the National Park System, as a species proposed to be listed under section 4 of the Act.

Activities undertaken on private lands are not affected by section 7 of the Act unless they are funded, authorized or carried out by a Federal agency.

2. Biological

This proposal deals with the gray wolf (*Canis lupus*), an endangered species of carnivore that was extirpated from the western portion of the conterminous United States by about 1930. The gray wolf is native to most of North America north of Mexico City, except for the southeastern United States, which was occupied by a similar species, the red wolf (*Canis rufus*). The gray wolf occupied nearly every area in North America that supported populations of hooved mammals (ungulates), its major food source.

Twenty-four distinct subspecies of gray wolf have been recognized in North America. Recently, however, taxonomists have suggested that there are five or fewer subspecies of gray wolf in North America and that the wolves that once occupied the northern Rocky Mountains of the United States belonged to a more widely distributed subspecies than was previously believed.

The gray wolf historically occurred in the northern Rocky Mountains, including mountainous portions of Wyoming, Montana, and Idaho. The great reduction in the distribution and abundance of this species in North America was directly related to human activities, especially elimination of native ungulates, conversion of wildland into agricultural lands, and extensive predator control efforts by private, State, and Federal agencies. When most wolves in the conterminous United States were eradicated, the natural history of wolves was poorly understood. As were other large predators, it was considered a nuisance and a threat to humans. Today, the gray wolf's role as an important and necessary part of natural ecosystems is better appreciated.

Wolf reproduction was not detected in the Rocky Mountain portion of the United States for a period of about 50 years prior to 1986. At that time, a wolf den was discovered near the Canadian border in Glacier National Park. This event was presumably due to the southern expansion of Canadian wolf populations, and the wolf population in Glacier National Park has steadily expanded to an estimated size of about 65 wolves that now occupy northwestern Montana.

Reproducing wolf populations are not known to occur in Idaho or southwestern Montana. Wolves occasionally have been sighted in these