

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To Delist Gray Wolves in Minnesota, Wisconsin, and Michigan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Notice of 90-day petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to delist the gray wolf (*Canis lupus*) under the Endangered Species Act of 1973, as amended (Act). The Service finds that the petition does not present substantial information indicating that delisting may be warranted.

DATES: The finding announced in this document was made on October 19, 1998. To be considered in the 12-month finding for this petition, information and comments should be submitted to the Service by December 18, 1998.

ADDRESSES: Questions, comments, or information concerning this petition should be sent to the Ecological Services Operations Supervisor, U.S. Fish and Wildlife Service, Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111-4056. The separate petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. T.J. Miller; 612-713-5334 (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:**Background**

Section 4(b)(3)(A) of the Act requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to the Service at the time the finding is made. To the maximum extent practicable, the finding shall be made within 90 days following receipt of the petition and promptly published in the **Federal Register**. Following a positive finding, section 4(b)(3)(B) of the Act requires the Service to promptly commence a status review of the species.

The processing of this petition conforms with the Service's final listing priority guidance for fiscal years 1998

and 1999, published in the **Federal Register** on May 8, 1998 (63 FR 25502). The guidance calls for giving highest priority to handling emergency situations (Tier 1); second highest priority to resolving the listing status of outstanding proposed listings, resolving the conservation status of candidate species, processing administrative findings on petitions, and processing a limited number of delistings and reclassifications (Tier 2); and third priority to processing proposed and final designations of critical habitat (Tier 3). The processing of this petition falls under Tier 2.

The Service has made a 90-day finding on a petition to delist the gray wolf (*Canis lupus*) in Minnesota, Wisconsin, and Michigan. The petition, dated February 9, 1998, was submitted by Mr. Lawrence Krak and was received on February 13, 1998. The petition requested that the Service delist the gray wolf in these three states, because the wolf is improperly listed as a subspecies in that area. The petition alleged that the subspecies listing is invalid because the subspecies found in these three states freely mixes with wolves in adjacent portions of Canada. Thus, because the wolves in these three states do not constitute a valid and listable subspecies, the petition stated that the gray wolf should be delisted immediately. Mr. Krak sent a second letter, dated June 15, 1998, which enclosed additional information relevant to his petition.

A review of the petition and Mr. Krak's subsequent letter and enclosure indicates that the petition is based upon a misunderstanding of the scope of the current listing of the gray wolf and of the Service's Vertebrate Population Policy.

The gray wolf is currently listed throughout the coterminous 48 states and Mexico at the species level; this listing is not based in any way upon subspecific affiliation or validity. Thus, the claim that the listing is based upon an improper listing as a subspecies is invalid. While the subspecies *C. l. lycaon* was listed as endangered in Minnesota and Michigan in 1974 (U.S. Fish and Wildlife Service 1974), that listing was superseded by a 1978 listing (43 FR 9607) of the gray wolf, *C. lupus* (i.e., the full species), throughout the 48 coterminous states and Mexico.

Furthermore, the Service's Vertebrate Population Policy (61 FR 4722, February 7, 1996), promulgated to clarify the definition of "species" found in the Act, would allow a listing of a vertebrate species or subspecies in a portion of the United States even if it freely mixes with a larger population across an

international border. This policy would allow the Service to list, as a distinct population segment, the U.S. portion of a wolf subspecies which has a much larger population in adjacent Canada. Thus, even if the current listing of the gray wolf was done at the subspecies level, the Vertebrate Population Policy would encompass it within the scope of the Service's listing authority.

The Service has reviewed the petition; the material submitted with, and subsequent to, the petition; and additional information in the Service's files. The Service also solicited comments and data from the States and Tribes within the area included in the petition and has reviewed the information received from those sources. On the basis of the best scientific and commercial data available, the Service finds that the petition does not present substantial information that delisting the gray wolf in Minnesota, Wisconsin, and Michigan may be warranted.

References Cited

U.S. Fish and Wildlife Service. 1974. United States list of endangered fauna, May 1974. U.S. Department of the Interior. Washington, D.C. 20240. 22 pp.

Author: The primary author of this document is Ronald L. Refsnider of the Service's Regional Office (U.S. Fish and Wildlife Service, Division of Endangered Species, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111-4056; 612-713-5346).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: October 6, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-

Endangered and Threatened Wildlife and Plants; Extension of Comment Period for Proposed Rule To List the Contiguous United States Distinct Population Segment of the Canada Lynx

AGENCY: Fish and Wildlife Service, Interior.