



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2017–0025; FXES11130900000 167 FF09E42000]

RIN 1018–BC04

Endangered and Threatened Wildlife and Plants; Reinstatement of Removal of Federal Protections for Gray Wolves in Wyoming

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are issuing this final rule to comply with a court order that reinstates the removal of Federal protections for the gray wolf (*Canis lupus*) in Wyoming under the Endangered Species Act of 1973, as amended. Pursuant to the United States Court of Appeals for the District of Columbia

Circuit order dated March 3, 2017, and mandate dated April 25, 2017, this rule again removes gray wolves in Wyoming from the List of Endangered and Threatened Wildlife.

DATES: This action is effective **[insert date of publication in the FEDERAL REGISTER]**. The United States Court of Appeals for the District of Columbia Circuit order dated March 3, 2017, and mandate dated April 25, 2017, removing Federal protections for the gray wolf in Wyoming had legal effect immediately upon filing of the mandate.

ADDRESSES: This final rule is available electronically at <http://www.regulations.gov> in Docket No. FWS-R6-ES-2017-0025. It will also be available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, Mountain-Prairie Regional Office, Ecological Services Division, 134 Union Blvd., Lakewood, CO 80228; telephone (303) 236-7400. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339.

FOR FURTHER INFORMATION CONTACT: For information on wolves in Wyoming, contact Tyler Abbott, Wyoming Field Office Supervisor, U.S. Fish and Wildlife Service, 5353 Yellowstone Rd, Suite 308A, Cheyenne, WY, 82009; telephone (307) 772-2374. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800-877-8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

The Federal List of Endangered and Threatened Wildlife (List), which is authorized by the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.), is located in title 50 of the Code of Federal Regulations in part 17 (50 CFR 17.11(h)). On September 10, 2012, we published a final rule to remove the gray wolf in Wyoming from the List and remove this population's status as a nonessential experimental population under the ESA (77 FR 55530; "2012 final rule"). Additional background information on the gray wolf in Wyoming and on this decision, including previous Federal actions, can be found in our 2012 final rule at <http://www.regulations.gov> in Docket No. FWS-R6-ES-2011-0039, or at <https://www.fws.gov/mountain-prairie/es/grayWolf.php>.

Various groups filed lawsuits challenging our 2012 final rule. On September 23, 2014, the U.S. District Court for the District of Columbia vacated and set aside our 2012 final rule (*Defenders of Wildlife v. Jewell*, 68 F. Supp. 3d 193 (D.D.C. 2014)) and reinstated our April 2, 2009 (74 FR 15123), final rule that protected gray wolves in Wyoming as a nonessential experimental population under the ESA. On December 1, 2014, the United States appealed the District Court's decision to the U.S. Court of Appeals for the District of Columbia Circuit. Pending the appeal, and consistent with the District Court's September 23, 2014, order, we published a final rule reinstating the April 2, 2009, final rule protecting the gray wolf in Wyoming (80 FR 9218, February 20, 2015).

On March 3, 2017, the U.S. Court of Appeals, in a unanimous opinion, reversed the ruling of the U.S. District Court *Defenders of Wildlife v. Zinke*, No. 14-5300 (D.C.

Cir. March 3, 2017). On April 25, 2017, the U.S. Court of Appeals issued its mandate consistent with its March 3, 2017, opinion reversing the U.S. District Court's vacatur of our 2012 final rule for gray wolves in Wyoming. The issuance of the mandate makes the delisting go into effect. To the extent that a regulatory change is required to effectuate the delisting, we are doing so now. Therefore, this rule amends the List of Endangered and Threatened Wildlife by removing gray wolves in Wyoming.

Administrative Procedure

This rulemaking is necessary to comply with the March 3, 2017, court order and April 25, 2017, mandate. Therefore, under these circumstances, the Director has determined, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and opportunity for public comment are impractical and unnecessary. The Director has further determined, pursuant to 5 U.S.C. 553(d)(3), that the court order and mandate constitute good cause to make this rule effective upon publication.

Effects of the Rule

Per the March 3, 2017, court order and April 25, 2017, mandate, the protections of the ESA are removed for gray wolves in Wyoming. Additionally, the regulations under section 10(j) of the ESA at 50 CFR 17.84(i) and (n) designating Wyoming as a nonessential experimental population area are also removed.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

To comply with the court order and mandate discussed above, we amend part 17, subchapter B of chapter I, title 50 of the CFR, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.11 [Amended]

2. Amend § 17.11(h) by removing the entry for “Wolf, gray [Northern Rocky Mountain DPS]” under MAMMALS from the List of Endangered and Threatened Wildlife.

§ 17.84 [Amended]

3. Amend § 17.84 by removing and reserving paragraphs (i) and (n).

Dated: March 28, 2017

James W. Kurth

Acting Director, U.S. Fish and Wildlife Service.

Billing Code: 4333-15-P

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