



FAQs

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July 2014

Proposal to Revise Mexican Wolf 10(j) Rule Frequently Asked Questions

On the Mexican Wolf Reclassification and Revised 10(j)

Q: What action is the Service taking regarding Mexican wolves?

A: On June 13, 2013 we published our *Proposed Revision to the Nonessential Experimental Population of the Mexican Wolf* in the Federal Register (78 FR 35719). We are now reproposing revisions to the 1998 nonessential experimental population designation of the Mexican wolf (*Canis lupus baileyi*) under section 10(j) of the Endangered Species Act (Act).

We are also announcing the availability of a draft environmental impact statement (dEIS) that analyzes the possible impacts on the human environment from our proposed revisions to the 1998 Final 10(j) rule, and from our proposal to extend the authority of the Mexican Wolf Recovery Program's ESA Section 10(a)(1)(A) research and recovery permit to areas that are outside of the Mexican Wolf Experimental Population Area (MWEPA). A 60-day public comment period will be open through September 23, 2014, to provide all interested parties an opportunity to comment on the proposed rule, the dEIS, and the amended required determinations section. Public information meetings and hearings have been announced.

Q: When will the proposed 10(j) rule and the DEIS be available, where can copies be obtained, how will the public be able to comment, and how long will the comment period be?

A: The proposed 10(j) rule and the DEIS will be available on July 25, 2014. We have developed a webpage on the FWS Southwest Region Ecological Services Mexican Wolf Recovery Program website. In cooperation with the U.S. Forest Service, we have also established information repositories at the Supervisor Offices for the National Forests throughout the project study area. For additional information or to access documents that we have made available for review with instructions on how to submit comments please visit our website: http://www.fws.gov/southwest/es/mexicanwolf/NEPA_713.cfm

Q: Why is the Service taking these actions?

A: We began reintroducing the Mexican wolf into the wild in 1998. Over the past 16 years, we have learned a great deal about reestablishing the Mexican wolf in a working landscape. In particular, we are more knowledgeable about the needs of the wolf population, more experienced in the techniques and mechanics of such a program, more engaged in programs to improve human acceptance of wolves and decrease conflicts, and more committed than ever to working with diverse partners to promote a successful Mexican wolf program.

Together with our cooperating state, federal and tribal agencies, we have reintroduced and managed Mexican wolves under a 1998 nonessential experimental population rule. A nonessential experimental population designation provides increased management flexibility for wolf populations that are reintroduced into a designated experimental population area (in this case, the Mexican Wolf Experimental Population Area, or MWEPA) within their historical range.

Given what we now know about managing a wild population of Mexican wolves, it is clear that the 1998 regulations do not provide the clarity or the flexibility we need to most effectively manage the experimental population. Specifically, we recognize that the regulations we established in 1998 limit our ability to achieve the necessary population growth, distribution, and recruitment that would contribute to the persistence of, and improve the genetic variation within, the experimental population. In June 2013, we published a proposal to revise the 1998 experimental population rule for the Mexican wolf. This reproposal incorporates comments and information from the public and our partners that we have obtained since our publication of the June 2013 proposed revisions.

Q: What is being proposed for the 10(j) rule?

A: The proposed revisions include:

- expanding the areas within which Mexican wolves can be released, and in which they can disperse and occupy,
- extending the southern boundary of current MWEPA from I-10 to the U.S.-Mexico border in Arizona and New Mexico, and
- revising and clarifying definitions within the rule, including when wolves can be taken while attacking livestock and non-feral dogs, or as needed to manage wild ungulate populations (elk, deer, etc.).

The regulatory flexibility provided by these proposed revisions to the 1998 rule would allow for more adaptability in our management actions within the MWEPA. Our aim is to further the conservation of the Mexican wolf while also being responsive to needs of local communities in cases of problem wolf behavior.

Q: How is the area within which Mexican wolves can be released being expanded and changed within the proposed revision?

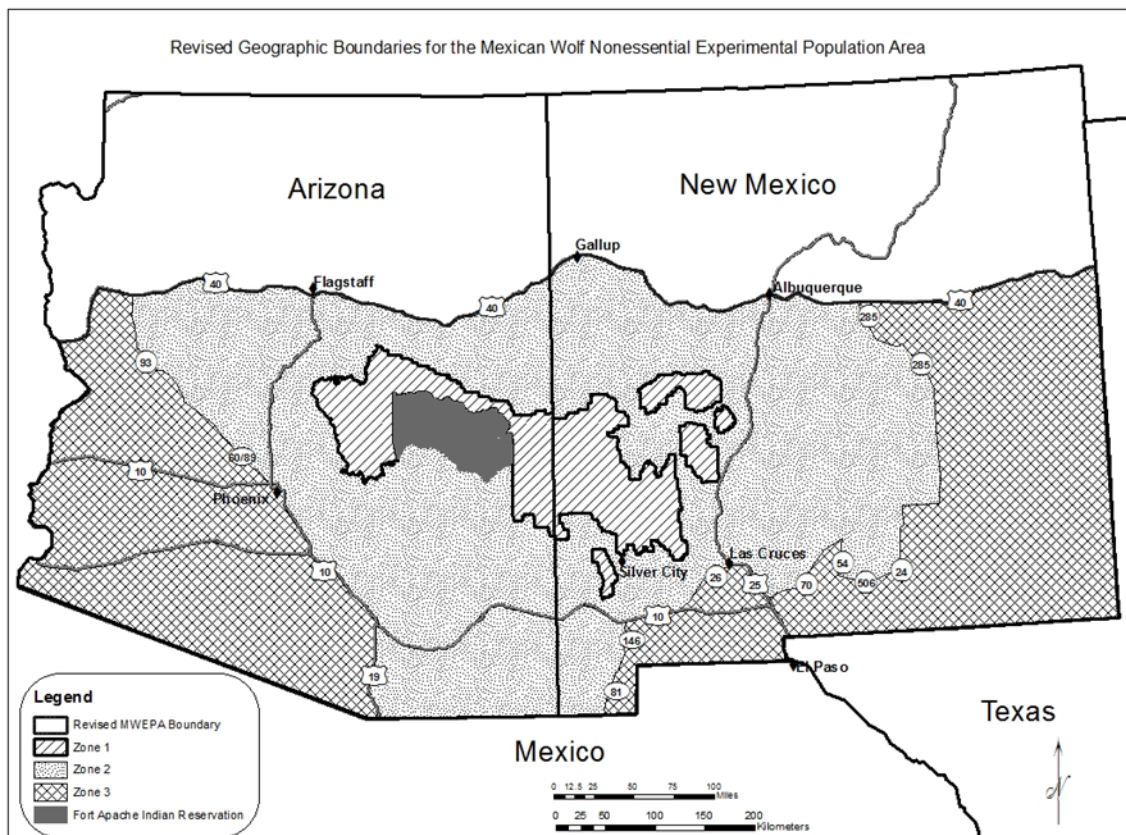
A: We are proposing to revise the 1998 nonessential experimental population 10(j) rule by removing the stipulation that captive-raised wolves may only be released into the Primary Recovery Zone (the southern portion of the Apache National Forest) of the Blue Range Wolf Recovery Area (BRWRA) in Arizona. The present BRWRA consists of the Apache and Gila National Forests located in east central Arizona and west central New Mexico respectively.

The revised proposal identifies Zones 1, 2, and 3 as different management areas within the MWEPA and discontinues the use of the presently recognized BRWRA designation.

- Zone 1 is where Mexican wolves may be initially released or translocated. It includes, and would include all of the Apache, Gila and Sitgreaves National Forests; the Payson, Pleasant Valley and Tonto Basin Ranger Districts of the Tonto National Forest; and the Magdalena Ranger District of the Cibola National Forest.
- Zone 2 is an area within the MWEPA into which Mexican wolves would be allowed to naturally disperse and occupy, and where Mexican wolves may be translocated. On federal land in Zone 2, initial releases of Mexican wolves would be limited to pups less than five months old, which allows for the cross-fostering of pups from the captive population into the wild, as well as enabling translocation-eligible adults to be re-released with pups born in captivity.

On private and tribal land in Zone 2, Mexican wolves of any age, including adults, can also be initially released under a Service- and state-approved management agreement with private landowners or a Service-approved management agreement with tribal agencies. Translocations in Zone 2 will be focused on suitable Mexican wolf habitat that is contiguous to occupied Mexican wolf range.

- Zone 3 is where neither initial releases nor translocations will occur, but Mexican wolves will be allowed to disperse into and occupy. Zone 3 is an area of less suitable Mexican wolf habitat and where Mexican wolves will be more actively managed under the authorities of this rule to reduce human conflict.



Q: Why is the Service proposing to extend the southern boundary of the current Mexican Wolf Experimental Population Area's southern boundary from I-10 to the U.S.-Mexico border?

A: We are proposing this modification because the reintroduction effort for Mexican wolves now being undertaken by the Mexican Government has established a need to manage Mexican wolves that may disperse north into southern Arizona and New Mexico from reestablished populations in Mexico. Extending the MWEPA south to the international border with Mexico would allow us to manage all Mexican wolves in this area, regardless of origin, under the experimental population 10(j) rule.

Q: How is the Service proposing to revise provisions for the taking (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct) of wolves within the experimental population area?

A: It has always been and remains permissible to harass or kill a Mexican wolf in self-defense or in defense of the lives of others.

We have also clarified the take provisions for intentional harassment, opportunistic harassment, take for research purposes, take by Service personnel or designated agencies, and unintentional take. In addition, we have revised the "due care" criteria in regard to trapping activities.

We have provided language to clarify that personnel of the U.S. Department of Agriculture, APHIS - Wildlife Services will not be in violation of the Endangered Species Act or this rule for take of a Mexican wolf that occurs while conducting official duties associated with predator damage management activities for species other than Mexican wolves. This provision requires that the action be coincidental to a legal activity and that the Wildlife Services employees involved have adhered to all applicable Wildlife Services' policies, Mexican wolf standard operating procedures, and reasonable and prudent measures or recommendations contained in Wildlife Service's biological and conference opinions.

On non-federal lands anywhere in the MWEPA, we propose to allow take of a Mexican wolf by domestic animal (includes livestock and non-feral dogs) owners or their agents when any Mexican wolf is in the act of biting, killing or wounding a domestic animal.

The Service or a designated agency can issue permits to domestic animal owners or their agents (e.g., employees, land manager, local officials) to take (including intentionally harass or kill) any Mexican wolf that is present on non-federal land where specified in the permit. These permits are issued infrequently, and only during or after an unsuccessful removal action authorized by the Service or designated agent. Permits issued under this provision will specify the number of days for which the permit is valid and the maximum number of Mexican wolves for which take is allowed. Take by permittees under this provision will assist the Service or designated agency in completing a removal action.

We also added reporting requirements that clarify that, unless otherwise specified in this rule or in a permit, any take of a Mexican wolf must be reported to the Service or our designated agency within 24 hours.

Finally, we have modified provisions in the 1998 Final Rule to allow for removal of Mexican wolves in response to impacts to wild ungulates.

Q: How will the Service’s proposal allow for the States’ management of wild ungulate populations?

A: If a state determines, based on established ungulate management goals, that Mexican wolf predation is having an unacceptable impact on a wild ungulate herd (pronghorn, bighorn sheep, deer, elk, or bison), the respective state may request approval from the Service that Mexican wolves be removed from the area of the impacted ungulate herd. Upon written approval from the Service, the state or any designated agency may be authorized to remove (capture and translocate in the MWEPA, move to captivity, transfer to Mexico, or lethally take) Mexican wolves. These management actions must occur in accordance with established, science-based provisions spelled out in the rule.

Before the Service will allow Mexican wolf removal in response to impacts to wild ungulates, the Service will evaluate the information provided by the state and provide a written determination to the requesting state agency whether such actions are scientifically based and warranted. If the request is approved, the Service will include in the written determination which management action (capture and translocate in MWEPA, move to captivity, transfer to Mexico, lethally take, or no action) is most appropriate for the conservation of the Mexican wolf subspecies.

Because tribes are able to request the capture and removal of Mexican wolves at any time, take in response to impacts to wild ungulates is not applicable on tribal trust lands.

Q: What is a 10j rule?

A: The 1982 amendments to the Endangered Species Act included the addition of section 10(j), which allows for the designation of reintroduced populations of listed species as “experimental populations.” Under section 10(j) of the Act and our regulations at 50 CFR 17.81, the Service may designate a population of a listed species as experimental if it has been – or will be – released into suitable natural habitat outside the species’ current natural range, but within its probable historical range.

With the experimental population designation, the specified population is treated as threatened under the Act, regardless of the species’ designation elsewhere in its range. Treating the experimental population as threatened allows us the discretion to devise management programs and special regulations for that population. Section 4(d) of the Act allows us to adopt any regulations that are necessary and advisable to provide for the conservation of a threatened species. When designating an experimental population, the general regulations that extend most of the Act’s prohibitions to threatened species (section 9) do not apply to experimental species, so the 10(j) rule contains the prohibitions and exemptions necessary and appropriate to conserve the designated experimental population.

For purposes of section 7, nonessential experimental populations are treated as proposed for listing, except on National Wildlife Refuge System or the National Park System lands, where they are treated as threatened species. In addition, the Service does not designate critical habitat for nonessential experimental populations.

Q: What is a Mexican wolf?

A: The Mexican wolf (*Canis lupus baileyi*) is the rarest, southern-most occurring, and most genetically distinct subspecies of all the North American gray wolves. The distinctiveness of the Mexican wolf and its recognition as a subspecies is supported by both morphometric (physical

measurements) and genetic evidence. The Mexican wolf is the smallest extant gray wolf subspecies in North America. Adults weigh 50 to 90 pounds lbs. with a length of 5 to 6 ft. and height at shoulder of 25 to 32 inches. Mexican wolves are typically a patchy black, brown to cinnamon, and cream color, with primarily light underparts. Solid black or white coloration, as seen in other North American gray wolves, does not exist in Mexican wolves. The basic life history for the Mexican wolf is similar to that of other gray wolves.

Q: Where are Mexican wolves found?

A: Mexican wolves historically inhabited montane woodlands and adjacent grasslands in northern Mexico, New Mexico, Arizona and the Trans-Pecos region of western Texas (Brown 1988) at elevations of 4000-5000 ft. where ungulate prey were numerous (Bailey 1931). The subspecies may have also ranged north into southern Utah and southern Colorado within zones of intergradation where interbreeding with other gray wolf subspecies may have occurred (Parsons 1996, Carroll et al. 2006, Leonard et al. 2005).

Maps of Mexican wolf historical range are available in the scientific literature. The southernmost extent of the Mexican wolf's range in Mexico is consistently portrayed as ending near Oaxaca. Depiction of the northern extent of the Mexican wolf's pre-settlement range among the available descriptions varies depending on the authors' taxonomic treatment of several subspecies and their interpretation of where reproductive interaction between neighboring wolf populations occurred.

Mexican wolves in Arizona and New Mexico inhabit evergreen pine-oak woodlands (i.e., Madrean woodlands), pinyon-juniper woodlands (i.e., Great Basin conifer forests), and mixed conifer montane forests (i.e., Rocky Mountain, or petran, forests) that are inhabited by elk, mule deer, and white-tailed deer.

Q: What is the current population?

A: The Interagency Field Team estimates the 2013 population of Mexican wolves in the wild to be a minimum of 83 animals, as determined by their most recent annual survey conducted in January 2014, up from a count of 75 in 2012.

On the Draft Environmental Impact Statement

Q: Why is the Service preparing a draft Environmental Impact Statement for the proposed changes to the Mexican wolf nonessential experimental population rule?

A: The proposed rule revisions have been informed by – and are being evaluated through – the development of a comprehensive [draft Environmental Impact Statement](#) (dEIS). The dEIS is required by the National Environmental Policy Act (NEPA) of 1969 to assess the environmental effects of their proposed federal actions prior to making decisions. The environmental impact assessment process conducted under NEPA is intended to ensure federal agencies make better informed decisions and that the public has a meaningful opportunity to participate in the process.

In the EIS we analyze the environmental consequences of a range of alternatives. For example, one alternative in the Mexican wolf EIS will consider the potential impacts of the proposed revisions to the 1998 Final Rule for the nonessential experimental population of the Mexican wolf. Another alternative will analyze impacts of not making any changes to our current management rules and actions. The best available science and public input will be considered as the Service develops the final EIS after the scoping period.

We also propose to extend the authority of the Mexican Wolf Recovery Program's Section 10(a)(1)(A) research and recovery permit to areas that are outside of the MWEPA. The action would be implemented through a final nonessential experimental rule, a revised Section 10(a)(1)(A) research and recovery permit and the provision of federal funding.

Q: How is the NEPA process contributing to the Service's development of a revised Mexican wolf nonessential experimental population rule?

A: Public participation and input is an essential element of the NEPA process. The Service initiated the scoping process for this EIS by publishing a Notice of Intent (NOI) to prepare an EIS for the *Proposed Amendment of the Rule Establishing a Nonessential Experimental Population of the Arizona and New Mexico Population of the Gray Wolf ("Mexican Gray Wolf")* in the *Federal Register* on August 7, 2007. On August 5, 2013 we published a *Federal Register* Notice of Intent (NOI) to prepare the Mexican wolf EIS, *Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Revision to the Nonessential Experimental Population of the Mexican Wolf (Canis lupus baileyi)* (78 FR 47268). The NOI solicited comments from the public, government agencies, tribes, industry, the scientific community, or any other interested parties concerning the scope of the EIS, pertinent issues to address, and alternatives that should be analyzed.

We have received – and evaluated – more than 7,000 comments submitted by the public including members of the ranching and livestock community, the environmental community, sportsmen groups, counties and local governments, leaders and members of tribes, and others. We have factored components of many of the ideas received in comments into our revised proposed rule and the development of the dEIS.

As part of our NEPA process, we entered into formal cooperating agency agreements with 27 federal, state, tribal and county agencies and governments. These agreements have allowed our cooperating agencies to provide pertinent information as we design and write the dEIS alternatives. The Arizona cooperating agencies recently submitted an EIS alternative, which was endorsed by the Arizona Game and Fish Commission. Like the other comments we have received, the alternative presented by the Arizona cooperating agencies has been instructive and helpful in preparing and clarifying the alternatives we are considering.

Q: How can I find out more about the NEPA planning process and the DEIS for the Mexican wolf nonessential experimental population rule?

A: More information regarding NEPA can be found in "A Citizen's Guide to NEPA: Having Your Voice Heard" (http://ceq.hss.doe.gov/nepa/Citizens_Guide_Dec07.pdf). We have developed a webpage for NEPA planning on the Mexican Wolf Recovery Program website and, in cooperation with the U.S. Department of Agriculture, Forest Service, Southwest Region, have established DEIS planning document repositories at the Forest Supervisor Offices for the National Forests throughout the project study area. For further information and to access the documents available for review, visit those locations or visit our website: http://www.fws.gov/southwest/es/mexicanwolf/NEPA_713.cfm. The documents will also be at <http://www.regulations.gov>. Search for FWS–R2–ES–2013–0098.

On the Public Comment Period and Hearings

Q: How can I comment on the proposed rule and dEIS?

A: Written comments on this proposed rule and the draft environmental impact statement can be submitted by one of the following methods:

- 1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Search for FWS–R2–ES–2013–0056, which is the docket number for this rulemaking. You may submit a comment by clicking on “Comment Now!”. Please ensure that you have found the correct rulemaking before submitting your comment
- 2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R2–ES–2013–0056; Division of Policy and Directives Management; U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

Verbal comments presented at the scheduled public hearings will also be entered into the record. However, time available to hear all desired comments will likely be limited at the hearings. Please plan to submit comments in writing, as well. Written and verbal comments are treated equally.

Q: Why are we opening the comment period?

A: We are committed to ensuring the public has an opportunity to provide input on our Mexican wolf program. When we published wolf listing/delisting and Mexican wolf 10(j) revision proposals on June 13, 2013, we announced the opening of a 90-day public comment period, ending September 11, 2013. On September 5, 2013, we extended the public comment period an additional 45 days, until October 28, 2013. On October 28, 2013, we extended the public comment period until December 17, 2013. We have now opened the public comment period on the draft environmental impact statement, and the amended required determinations section, which also provides the public with an additional opportunity to comment on the updates to the 10(j) proposed rule revision.

Q: Why are we having public hearings on the proposed rules?

A: We are holding the public hearings to provide interested parties an opportunity to present verbal testimony (formal oral comments) and/or written comments on our proposed rule revision. A public hearing is a forum for accepting formal verbal testimony. Our final determinations concerning the proposed actions will take into consideration all comments received during the public hearings, all written comments we receive during all comment periods, and comments from peer reviewers. The comments will be included in the public record for these rulemakings, and we will fully consider them in the preparation of our final determinations. We will also hold public information meetings prior to each hearing so that individuals can receive more detailed information regarding the proposal and have their questions answered.

Q: Where and when will the information meetings and hearings be held?

A: Two public informational sessions and two public hearings on this proposed rule and dEIS are scheduled. Informational session will be held from 2:00 p.m. to 4:00 p.m., followed by a public hearing for the recording of oral comments from 6:00 p.m. to 9:00 p.m. as follows:

- 1) Aug. 11, 2014 at Hon-Dah Conference Center, 777 Highway 260, Pinetop, Ariz. (3 miles outside of Pinetop at the Junction of Hwy 260 and Hwy 73)

2) Aug. 13, 2014 at the Civic Center, 400 W. Fourth Street, Truth or Consequences, N.M.

Q: Why were these locations selected?

A: We selected these locations based on recommendations from the Cooperating Agencies, as well as requests from the public.