

**From:** [Zerrenner, Adam](#)  
**To:** [Forbes-Guerrero, Jessica](#); [Niva, Liisa M](#)  
**Cc:** [Hansen, Craig](#); [Broderdorp, Kurt](#); [Fox, Lori](#); [Stover, Margaret](#)  
**Subject:** Re: [EXTERNAL] FW: Wolf 10j comment letters  
**Date:** Friday, July 28, 2023 10:52:45 AM  
**Attachments:** [image003.png](#)  
[CO Wolves Comments.docx](#)

---

Thank you Jessica!

Craig, please let us know if you need anything else.

Adam

---

**From:** Forbes, Jessica <Jessica.Forbes@wsp.com>  
**Sent:** Friday, July 28, 2023 11:29 AM  
**To:** Zerrenner, Adam <Adam\_Zerrenner@fws.gov>  
**Cc:** Hansen, Craig <Craig\_Hansen@fws.gov>; Broderdorp, Kurt <kurt\_broderdorp@fws.gov>; Fox, Lori <lori.fox@wsp.com>; Stover, Margaret <margaret.stover@wsp.com>  
**Subject:** [EXTERNAL] FW: Wolf 10j comment letters

**This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.**

Hi Adam,

I've attached the representative quotes from the comment summary report that apply to the issues you listed. Please let us know if you have any questions. Thanks!

Jessica



**Jessica Forbes**  
Federal Programs, Planner/Project Manager  
Environment

T+ 1 303-222-8941  
M+ 1 757-816-7762

---

**From:** Zerrenner, Adam <[Adam\\_Zerrenner@fws.gov](mailto:Adam_Zerrenner@fws.gov)>  
**Sent:** Tuesday, July 25, 2023 8:50 AM  
**To:** Fox, Lori <[lori.fox@wsp.com](mailto:lori.fox@wsp.com)>; Stover, Margaret <[Margaret.Stover@wsp.com](mailto:Margaret.Stover@wsp.com)>; Forbes, Jessica <[Jessica.Forbes@wsp.com](mailto:Jessica.Forbes@wsp.com)>; Broderdorp, Kurt <[kurt\\_broderdorp@fws.gov](mailto:kurt_broderdorp@fws.gov)>  
**Cc:** Hansen, Craig <[Craig\\_Hansen@fws.gov](mailto:Craig_Hansen@fws.gov)>

**Subject:** Wolf 10j comment letters

Good Morning Everyone,

Hoping you all can help us track down the individual comment letters that raised the issues below and provide to us.

Lori and team, is this something you all can do for us?

Thank you!

Adam

**(1) Appointment of Designated Agent** – We received a comment asking us to clarify the term designated agent, but no comments specifically regarding their appointment.

**(2) Request for “Shoot-on-Sight” Written Take Authorization –**

**Issue #1:** Commenters worried that regulations for shoot-on-sight in the rule are too vague and that key terms like harassing and molesting do not have clear definitions. They asked for more straightforward definitions to avoid confusion.

In addition, commenters expressed opposition to shoot-on-sight take authorizations and for permission to take wolves in the act of attacking. A commenter noted that wolves often chase or test prey without the chase resulting in an attack. One commenter noted that the 1994 rule governing wolf reintroduction in the northern Rocky Mountains does not include shoot-on-sight authorizations for private landowners and said that the allowance would not be necessary.

Also, commenters requested that take authorization permits be extended for a period longer than 45 days. A commenter asked for the shoot-on-sight requirements to be changed to specify that the predation event was confirmed within the last 30 days, rather than the predation event occurring within the last 30 days. The commenter noted that grazing allotments are often large and remote, and that it is impractical to expect all depredations to be discovered and confirmed within 30 days.

**Issue #2:** Commenters worried that the regulations for repeated depredation (formerly shoot-on-sight), and opportunistic and intentional harassment in the rule are too vague and that key terms like harassing and molesting do not have clear definitions. They asked for more straightforward definitions to avoid confusion

---

**(3) Reporting Requirement – Lethal Take** – Commenters expressed support for lethal take allowances in the rule and in the FEIS, and said that lethal take is a necessary management strategy to have available. Commenters were in favor of the management flexibility provided in the rule and under alternative 1 of the FEIS. Commenters noted that the previous reintroductions in the northern Rocky Mountains have succeeded with the management flexibility of a 10(j) rule. Commenters noted that lethal take is necessary to protect the livestock industry and other wildlife, and requested that the permitting process for lethal take be liberal and streamlined to prevent livestock losses. Some commenters were specifically supportive of take provisions for wolves caught in the act of predating on pets and working dogs. Commenters said that lethal take would be important to prevent extreme growth of wolf populations in Colorado and impacts on livestock, big game, and other wildlife species. Some commenters said they appreciated the greater flexibility allowed in the Service's rule compared to the State Plan, specifically in relation to taking wolves "in the act of attacking" and the reporting requirements. Commenters said that lethal take would be the only feasible option in many cases and asserted that nonlethal measures like relocation and livestock guardian dogs are ineffective.

Additionally, a commenter said reporting of lethal take or harassment should be permitted through a phone call or website, in addition to mail or email.

**(5) Annual Report** – A commenter requested that annual reporting should only be required for five 5 years post-reintroduction.

**(6) PRA Language in Rule Document** – Commenters requested that in the section of the rule related to the PRA, text be edited to read "The report, due by June 30 of each year, will describe wolf conservation and management activities that occurred in Colorado each calendar or biological year up until 5-years post reintroduction."

[WSP USA | Internal]



CO Wolves Comments to look up:

**(1) Appointment of Designated Agent** – We received a comment asking us to clarify the term designated agent, but no comments specifically regarding their appointment.

“Designated Agents: The Proposed Rule defines “Designated agent” in two different ways: 1) “Designated agent” Federal, State, or Tribal agencies authorized or directed by the Service may conduct gray wolf management consistent with this rule; 2) “Designated agent” An employee of a Federal, State, or Tribal agency that is authorized or directed by the Service to conduct gray wolf management consistent with this rule.” To eliminate this inconsistency, CCA suggests that the Service combine its separate definitions of “Designated agent” to read, “[a] Federal, State, or Tribal agency, or employee thereof, authorized or directed by the Service to conduct gray wolf management consistent with this rule.”

“Designated Agent Should include livestock/landowners that have had confirmed depredation, or are in proximity of wolves that pose an imminent threat to the safety of humans, and domestic animals including pets.”

**(2) Request for “Shoot-on-Sight” Written Take Authorization** –

**Issue #1:** Commenters worried that regulations for shoot-on-sight in the rule are too vague and that key terms like harassing and molesting do not have clear definitions. They asked for more straightforward definitions to avoid confusion.

“We strongly recommend that the Service clearly define chasing, harassing and molesting in a way that makes it clear to livestock owners what evidence of a real threat would be necessary to legally allow lethal take. Any guidance that can be given would ease the concerns of the livestock owners and assure wolf advocates that lethal take only occurs under clear circumstances that would result in the death or injury of livestock.”

“Taking wolves ‘in the act of attacking’ livestock on private land. This provision allows for lethal take for ‘harassing’ and ‘molesting’ and in the definitions section includes ‘chasing;’ these terms are not defined in the proposed rule or elsewhere in federal regulation. Livestock owners will not be able to clearly identify when these provisions apply and so I oppose taking wolves in this circumstance. I believe the Service should clearly define these terms to give livestock owners directions under the proposed rule.”

“The proposed 10(j) rule allows for lethal take for ‘harassing’ and ‘molesting’ and in the definitions section includes ‘chasing.’ These terms need to be clearly defined in the proposed rule, DEIS or elsewhere in federal regulations. Livestock owners need to be clear on when these provisions apply.”

In addition, commenters expressed opposition to shoot-on-sight take authorizations and for permission to take wolves in the act of attacking. A commenter noted that wolves often chase or test prey without the chase resulting in an attack. One commenter noted that the 1994 rule governing wolf reintroduction in the northern Rocky Mountains does not include shoot-on-sight authorizations for private landowners and said that the allowance would not be necessary.

“‘Shoot-on-sight’ permits should be eliminated or, at minimum, significantly narrowed. The Proposed Rule would allow the Service to issue a limited-duration “shoot-on-sight” take authorization allowing a landowner, their employees, or a public land grazing permittee to take up to a specified number of wolves. These authorizations should be eliminated because they are unnecessary and contrary to the conservation of the species. First, the Proposed Rule’s other exceptions for agency take of wolves and take by individuals when a wolf is in the act of attacking domestic animals adequately cover all situations where lethal removal might be considered, as a last resort, necessary. Indeed, the 1994 4(d) rule governing wolf reintroduction in the Northern Rocky Mountains did not include any analogous provision for private landowner take authorization and there is no reason why it is necessary here. Second, expanding the circumstances where private individuals (rather than agency officials) may lethally take wolves should be disfavored, because private individuals do not receive the same training as government officials, and their actions are not subject to the same accountability and transparency mechanisms as agency actors. Third, “shoot-on-sight” authorizations are intrinsically untargeted and are likely to result in the killing of random wolves who are not “problem” wolves responsible for livestock attacks, undermining the efficacy of the authorization as a means of addressing conflict and amplifying the damaging effects of the killing on the population.”

“Additionally, the Draft Rule’s “shoot-on-sight” provisions, see 88 Fed. Reg. 10,272, must be removed altogether, especially on federal public lands, but also as unnecessary on private lands as well. This is a particularly egregious allowance of take that cannot be said to serve the conservation needs of the species and is thereby entirely inappropriate in this Section 10(j) rule.”

Also, commenters requested that take authorization permits be extended for a period longer than 45 days. A commenter asked for the shoot-on-sight requirements to be changed to specify that the predation event was confirmed within the last 30 days, rather than the predation event occurring within the last 30 days. The commenter noted that grazing allotments are often large and remote, and that it is impractical to expect all depredations to be discovered and confirmed within 30 days.

“The “shoot on-sight” written take authorization permit should be available for longer than 45 days in the face of continued depredation or should be allowed to be extended. Our grazing allotment is permitted for 82 days and we see continuous depredation by resident predators in our area (bear, lion, coyote) for the entire duration. I assume depredation behavior from wolves would be similar.”

“The requirement that a shoot-on-sight order must be preceded by a confirmed depredation within the last 30 days (50 C.F.R. 17.84(iii)(B) and iv(B)) should specify that the confirmation must have occurred within the last 30 days, not that the depredation itself occurred within the last 30 days. Public land grazing allotments are large, and portions of many allotments are remote and difficult to access regularly. Some large private holdings also contain remote or inaccessible areas. As a result, it is not practical to expect that all depredations will be discovered within 30 days, let alone be confirmed. Further, staff or funding constraints may make it difficult or impossible for USFWS or its designated agent to confirm all depredations within 30 days, even if they are promptly discovered and reported.”

**Issue #2:** Commenters worried that the regulations for repeated depredation (formerly shoot-on-sight), and opportunistic and intentional harassment in the rule are too vague and that key terms like harassing and molesting do not have clear definitions. They asked for more straightforward definitions to avoid confusion

“Intentional harassment. We recommend removing any allowance for attracting wolves in order to harass them. The definitions of opportunistic harassment and intentional harassment imply that intentional harassment could include “prior purposeful actions to attract, track, wait for, or search out the wolf.” (Emphasis added). Intentionally attracting wolves in order to harass them could run counter to the intent of such harassment, which is to keep wolves from approaching humans and their livestock. If “attracting” can be clearly defined to include methods such as using predator calls or other means that will not potentially attract wolves to human dominated areas or livestock, this provision would be acceptable. Without such constraints, it could lead to further depredations or habituation. On the other hand, tracking, waiting for, and searching out wolves can be done in ways that will cause avoidance and we support inclusion of those methods in the proposed rule.”

“Harassment: The Draft Rule should clarify in 50 C.F.R. §17.84(5)(i) & (ii) that passive, proactive deterrents such as flashing lights or fladry are considered opportunistic harassment, not intentional harassment, when placed on private property or around fenced areas where livestock are kept, and that no prior written take authorization is required to employ passive deterrent measures.”

**(3) Reporting Requirement – Lethal Take** – Commenters expressed support for lethal take allowances in the rule and in the FEIS, and said that lethal take is a necessary management strategy to have available. Commenters were in favor of the management flexibility provided in the rule and under alternative 1 of the FEIS. Commenters noted that the previous reintroductions in the northern Rocky Mountains have succeeded with the management flexibility of a 10(j) rule. Commenters noted that lethal take is necessary protect the livestock industry and other wildlife, and requested that the permitting process for lethal take be liberal and streamlined to prevent livestock losses. Some commenters were specifically supportive of take provisions for wolves caught in the act of predating on pets and working dogs. Commenters said that lethal take would be important to prevent extreme growth of wolf populations in Colorado and impacts on livestock, big game, and other wildlife species. Some commenters said they appreciated the greater flexibility allowed in the Service’s rule compared to the State Plan, specifically in relation to taking wolves “in the act of attacking” and the reporting requirements. Commenters said that lethal take would be the only feasible option in many cases and asserted that nonlethal measures like relocation and livestock guardian dogs are ineffective.

“Lethal control must remain in the 10(j) Rule and subsequent implementation. Any weakening of the use of lethal control will limit the success of the Colorado Plan and negatively impact livestock production, and other wildlife species. The previous reintroductions in the Northern Rocky Mountains have all done so with a 10(j) and have been very successful.”

“The 10J designation needs to include the following: Trapping as a management option for wolves; A quick and efficient process for lethal take permits for livestock owners when depredation takes place or wolves are chronically harassing livestock; A comprehensive and flexible incidental take section; and Provide options for relocation/removal of wolf packs negatively impacting livestock production, depressing wildlife populations or creating

human concerns. The ban of the use of leghold traps by Colorado's Amendment 14 does not apply to federal agencies in Colorado. With the exception of California, all other states use trapping as a management tool. Without the assistance of this tool, the Colorado wolf population will reach a point of extreme growth with unmitigated impacts to livestock, big game and other wildlife species. The Bureau of Land Management's failure to control the feral horse population serves as a prime example for unchecked growth of a high impact species."

"We find positive differences between provisions in the proposed 10(j) rule and similar allowances referenced in Colorado Parks and Wildlife's (CPW) Wolf Restoration and Management Plan. First, we appreciate that the proposed 10(j) rule allows for flexibility beyond what the state of Colorado would allow, including the taking of wolves "in the act of attacking" livestock without a permit or authorization from FWS. Second, we are encouraged to see that the definition of livestock under the proposed 10(j) rule is broader than what CPW recognizes and includes domestic bison as well as pigs, mules, and alpacas. Third, we are pleased to see that the safety of our pets is accounted for in the proposed 10(j) rule, and that wolves could be taken without FWS authorization, if in the act of attacking pets beyond livestock guard animals and working dogs. Fourth, we are in favor of the flexible reporting requirements in the proposed rule whereby opportunistic and intentional harassment of wolves will be reported to FWS within 7 days as opposed to the 24-hour notification required by the state. We appreciate that the FWS can issue a written take authorization for limited duration of 45 days or less, where the state issues a limited duration permit only if state or federal agents are unable to implement lethal control actions."

"The permitting process for intentional harassment and take provisions should be expeditious, liberal and streamlined to allow for timely prevention of conflicts and depredations."

"Lethal Take Wolves have been living in other states, so this is not an experiment. If wolves have no reason to fear humans, they are not deterred from killing livestock, even in the presence of range riders, and have no reason to avoid human contact. Recent killings in North Park illustrate this. "Non-lethal" deterrents, while highly recommended and celebrated, are, in fact, not effective. Experience in other states, and in North Park, show that the wolves soon learn to ignore fladry, noisemakers, range riders and other deterrents if there is no consequence to hunting and killing prey. A predator "any predator" has to kill another living creature every few days in order to survive. Ribbons tied to a fence will not change their minds. We have used Livestock Guardian Dogs to protect our sheep since 1980. They are expensive to maintain and require a lot of management. They are usually effective with coyotes because they are the larger dominant canines. Livestock Guardian Dogs are not a deterrent to wolves who can and do kill them."

Additionally, a commenter said reporting of lethal take or harassment should be permitted through a phone call or website, in addition to mail or email.

"Section 17.84(6) requires harassment or lethal take of gray wolves to be reported to USFWS or its designated agent. The Rule currently provides for reporting by US Mail or email. The Rule should also authorize reporting through a phone number or website to provide maximum flexibility to reporting individuals."



**(5) Annual Report** – A commenter requested that annual reporting should only be required for five 5 years post-reintroduction.

“In the Paperwork Reduction Act section, number 5 ‘Annual Report’, the last full sentence should read: “The report, due by June 30 of each year, will describe wolf conservation and management activities that occurred in Colorado each calendar or biological year up until 5-years post reintroduction”.”

**(6) PRA Language in Rule Document** – Commenters requested that in the section of the rule related to the PRA, text be edited to read “The report, due by June 30 of each year, will describe wolf conservation and management activities that occurred in Colorado each calendar or biological year up until 5-years post reintroduction.”

“In the Paperwork Reduction Act section, number 5 ‘Annual Report’, the last full sentence should read: “The report, due by June 30 of each year, will describe wolf conservation and management activities that occurred in Colorado each calendar or biological year up until 5-years post reintroduction”.”

**Commented [SM1]:** Note that 5 and 6 are the same rep quote