

Colorado Gray Wolf 10(j) Rulemaking EIS

Summer 2022

Fish and Wildlife Service
U.S. Department of the Interior



YOU'RE INVITED!

Dear friend,

Thank you for your interest in the planning process for management of gray wolves in Colorado. In response to a request from Colorado Parks and Wildlife (CPW) for increased management flexibility, the U.S. Fish and Wildlife Service (the Service) has published a Notice of Intent to prepare an Environmental Impact Statement (EIS) for the Colorado Gray Wolf 10(j) Rulemaking. The Service is proposing this rulemaking to develop a 10(j) rule under the Endangered Species Act (ESA) that would provide the state its requested management flexibility for reintroduced wolves, while reducing potential conflicts between wolves, livestock producers, and other stakeholders and increasing the likelihood that the reintroduction effort is successful.

CPW is continuing public outreach efforts during development of the state's wolf restoration and management plan, which will focus on the logistics of the reintroduction and management of the gray wolf. The public scoping effort for the rulemaking EIS focuses on the scope of the Service's proposed action and the potential environmental impacts of implementing an experimental population or permit under section 10 of the ESA.

Additional information about the scope of the EIS is included in this newsletter, such as the purpose and need for the proposed action, environmental issues to be considered in the EIS, and preliminary draft alternative concepts. The Service encourages you to review this information and participate in the public scoping phase of this planning process by asking questions and providing your feedback to the planning team. You can provide comments online: <https://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R6-ES-2022-0100. Other ways to provide comments are listed on [page 5](#) of this newsletter.

A series of in-person and virtual public open houses will be held this summer, and the Service invites you to participate if you are able. We look forward to hearing from you!

Sincerely,

Nicole Alt

**Colorado Ecological Services Supervisor
U.S. Fish and Wildlife Service**



PUBLIC MEETINGS

IN PERSON

All in-person public scoping meetings will be held from **6:00–8:00 p.m. MT** and include a short presentation followed by an open house to provide attendees opportunities to ask questions and submit comments. Public scoping meetings will be held in the following locations:

- **Tuesday Aug. 2, 2023:**
 - Gunnison Fairgrounds,
275 Spruce Street Ste A,
Gunnison, CO 81230
- **Wednesday Aug. 3, 2023:**
 - Silverthorne Pavilion,
400 Blue River Parkway,
Silverthorne, CO 80498
- **Thursday Aug. 4, 2023:**
 - Moffat County High School,
900 Finley Lane, Craig, CO 81625

VIRTUAL PUBLIC MEETING

The virtual meeting will begin with a short presentation followed by time for questions and answers. The virtual public meeting will be held **Wednesday, Aug 10, 2022 from 6:00–8:00 p.m. MT**. Please register for the virtual public meeting at <https://rebrand.ly/COwolves>.



BACKGROUND INFORMATION

Gray Wolves in Colorado

Historically, gray wolves occurred across Colorado in all the state's major habitat types, preying on native ungulate species such as bison, elk, and deer. When overhunting from European settlers reduced these ungulate populations, wolves increasingly began to prey on domestic livestock. Unregulated hunting and trapping, as well as the widespread use of poisons, resulted in the eradication of gray wolves across Colorado and most of the species' historical range in the lower 48 states by the early to mid-1900s. The last known wolf in Colorado at this time was killed in Conejos County in 1945.

In 1995 and 1996, gray wolves were reintroduced in the Northern Rocky Mountains region under the Service's regional wolf recovery program. For a complete history of the regulatory management of wolves in the lower 48 states through 2018, please see the Service's 2020 final delisting rule, published in the Federal Register [85 FR 69778]. As this population has recovered, dispersing wolves have been documented in Colorado. Most of these dispersing wolves have been confirmed through limited sightings, and there are no indications that they have remained in the state until recently. In 2021, the first wildborn pups were documented in Colorado. As of the end of 2021, there was one documented pack in Colorado. Visual sightings note between six to seven wolves in that pack, and there is no evidence of breeding in 2022.

Colorado Restoration and Management Plan

On November 3, 2020, Proposition 114, now codified as Colorado Statute 33-2-105.8, was approved by Colorado voters. The statute requires the CPW Commission to develop a plan to restore and manage gray wolves and take the steps necessary to reintroduce gray wolves no later than December 31, 2023. The statute also requires CPW to assist livestock producers in preventing and resolving wolf conflicts with livestock. The status of gray wolves in Colorado under the ESA is currently endangered, and they are federally protected throughout the state. Following the adoption of Colorado Statute 33-2-105.8, CPW requested that the Service develop a 10(j) rule under the ESA to provide flexibility in the state's management of the species.

While reintroduction programs for species listed under the ESA typically are led by the federal government, Colorado Statute 33-2-105.8 is unique in that the reintroduction and management effort for gray wolves is citizen-directed and state-led. While this effort is not led by the Service, the Service has the authority to designate a population as an experimental population under section 10(j) of the ESA if it will be released into suitable natural habitat outside the species' current range (but within its probable historic range). A section 10(j) designated population of an endangered species is treated as a threatened or candidate species under the ESA, which allows the Service to enact management restrictions, protective measures, or other special management considerations for the population that provides for management flexibility for the reintroduced population.

In response to the request by CPW, the Service is evaluating establishing an experimental population or permit consistent with section 10 of the ESA to assist the State of Colorado in the reintroduction and management of gray wolves in part of the species' historical range in Colorado. The rule or permit would address components of the gray wolf restoration and management plan developed by the State of Colorado.





PURPOSE AND NEED

Why prepare a 10(j) rulemaking EIS?

CPW has requested that the Service issue a section 10(j) rule under the ESA to facilitate reintroduction and management of gray wolves in Colorado. As gray wolves remain on the endangered species list throughout the state, any flexibility in management would require some level of regulatory involvement from the Service. Issuing a proposed section 10(j) rule for reintroduced gray wolves in Colorado would allow the Service to customize protective regulations for the species to:

- **Reduce potential impacts to stakeholders, and**
- **Increase the likelihood that reintroduction and management of wolves is successful and benefits conservation of the species as a whole.**

The National Environmental Policy Act (NEPA) requires federal agencies to assess the potential environmental effects of any proposed action prior to making a final decision and implementing it. Development of a section 10(j) rule is considered a major federal action requiring review under NEPA.

PURPOSE:

The purpose of this action is to provide flexibility for the State of Colorado in their efforts to reestablish a population of gray wolves in a portion of the species' historical range in Colorado. This restoration effort is a result of Colorado State statute 33-2-105.8 which directs the Colorado Parks and Wildlife Commission to develop a plan to introduce gray wolves to Colorado, passed on November 3, 2020.

NEED:

Currently, the gray wolf is listed as endangered by the Service in Colorado. To facilitate reintroduction efforts, the State of Colorado has requested the Service designate the reintroduced population as an experimental population under section 10(j) of the ESA. This designation would reduce the regulatory impact of reintroducing a federally listed species in a specific geographic area (experimental population boundary), while still contributing to the species' conservation. This EIS evaluates the use of the 10(j) process for this reintroduction.



RANGE OF PRELIMINARY DRAFT ALTERNATIVE CONCEPTS

As part of the planning process, the Service will evaluate various alternatives for a federal regulatory framework for gray wolves in Colorado. Preliminary draft alternative concepts being considered early in the process include the no-action alternative (state reintroduction without a federal regulatory framework) and two action alternatives that propose regulatory frameworks consistent with section 10 of the ESA. The action alternatives evaluated in the EIS will address wolf reintroduction and management measures proposed by CPW that would be accounted for in any rulemaking by the Service. Preliminary draft alternative concepts are summarized below.

Alternative Concept 1

Apply Section 10(j) Rule to the Gray Wolf in Colorado

This alternative would apply a section 10(j) rule to the gray wolf across the state of Colorado. Under the section 10(j) rule, the reintroduced population would be treated as if it were listed as threatened under the ESA, rather than endangered, allowing the Service the discretion to enact management restrictions, protective measures, or other special management considerations. Components of the gray wolf restoration and management plan developed by the State of Colorado would be included in the section 10(j) rule.

Alternative Concept 2

Apply Section 10(j) Rule to the Gray Wolf in a Limited Territory and Establish Safe Harbor Agreement for the Gray Wolf Population in the Rest of Colorado

Alternative 2 addresses the possibility that an existing population of gray wolves is identified in Colorado. If an existing population of gray wolves is determined to exist in Colorado, the Service would issue a Safe Harbor Agreement with Assurances and permit under section 10(a)(1)(A) of the ESA for management of this population. The Service would issue a section 10(j) rule for the proposed experimental population of reintroduced wolves and an experimental population boundary that would include a smaller geographic area in which the final rule would apply.

No-Action Alternative

The Service would not promulgate a section 10(j) rule or a section 10(a)(1)(A) permit. The state would reintroduce gray wolves to Colorado without the management flexibility provided by a 10(j) rule or an assurance agreement or permit. Gray wolves in Colorado would remain listed as endangered, and management of wolves would be subject to section 6 of the ESA and the prohibitions in section 9 of the ESA related to endangered species.

ISSUES

An “issue” describes the relationship between actions and environmental resources (natural, cultural, and socioeconomic). Issues usually are adverse effects that any of the action alternatives or the no-action alternative might cause or that may currently exist. Issues may also be questions, concerns, or other relationships, including beneficial ones.

For the Colorado Gray Wolf 10(j) Rulemaking EIS, the Service has identified issues related to the following resources or values:

- Species of special concern
- Other wildlife species
- Ecosystems and ecosystem dynamics
- Tribal cultural resources and sacred sites
- Socioeconomic resources
- Minority and low-income populations
- Recreation – Visitor use and experience





NEPA PROCESS

The Service is preparing this EIS in accordance with NEPA, which requires federal agencies to assess the potential environmental effects of any proposed action being undertaken, permitted, or funded by the agency. Important steps in the NEPA process, including opportunities for public review and comment, are outlined below.

JULY 2022	<p>Notice of Intent to prepare the Colorado Gray Wolf 10(j) Rulemaking EIS; public scoping begins</p> <p>★ WE ARE HERE</p>
AUGUST 2022	Public scoping meetings
AUG. 22, 2022	Public scoping comment period concludes
SUMMER to FALL 2022	Analyze comments and prepare scoping summary report
FALL to WINTER 2022	Gather data, refine alternatives, analyze impacts, and prepare the Draft EIS
JANUARY 2023	Draft EIS and proposed rule available for public review
FEBRUARY 2023	Public meetings on the Draft EIS
FALL 2023	Final EIS released
LATE FALL/ WINTER 2023	Record of Decision and final rule

HOW TO COMMENT

When submitting a comment, please consider the following questions:

- What other alternatives, alternative elements, or regulatory or management approaches should be considered?
- What issues should be considered when evaluating issuing a section 10(j) rule or permit for reintroduction and management of gray wolves in Colorado?
- What interactions should we consider in evaluating potential impacts to ecosystems and wildlife species?
- What factors should we consider in evaluating climate change effects to gray wolves and other affected resources?



Submit comments online at

<https://www.regulations.gov>.

Follow the instructions for submitting comments to Docket No. FWS-R6-ES-2022-0100.



Mail or hand-deliver written comments to:

**Comments Processing,
Attn: FWS-R6-ES-2022-0100;
U.S. Fish and Wildlife Service,
MS: PRB/3W, 5275 Leesburg Pike,
Falls Church, VA 22041-3803**



Note: Comments will not be accepted by fax or any other way than those specified above. Please also note that your entire comment—including personal identifying information such as your address, phone number, and e-mail address—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review,