

Here is a press release from the USFWS from December 2017

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**DENVER (December 6, 2017)** – Today the U.S. Fish and Wildlife Service (Service) published a Notice of Regulatory Review (NORR) in the *Federal Register* requesting public comment on any potential effects a recent D.C. Circuit Court of Appeals ruling may have on the Service’s June 30, 2017 final rule delisting the Greater Yellowstone Ecosystem (GYE) grizzly bear Distinct Population Segment (DPS).

In this recent case, *Humane Society of the United States et al. v. Zinke et al.*, the court found that the Service had not evaluated how delisting the Western Great Lakes (WGL) DPS of gray wolves would affect the remaining wolf populations that were still listed under the Endangered Species Act (ESA) and what the effect of lost historical range may have on the status of the WGL wolf DPS. This court opinion may impact the GYE grizzly bear final delisting rule which, like the WGL wolf decision, designated a portion of an already listed species as a DPS and then revised that listed species by removing the DPS due to recovery.

Consequently, the Service is reviewing the potential implications for the GYE final delisting rule in light of this ruling and is seeking any public comments that would aid in this review. Specifically, the Service is interested in public input on whether this court’s opinion affects the GYE final delisting rule and what, if any further evaluation the Service should consider regarding the remaining grizzly bear populations in the lower 48 states and their lost historical range. The NORR also outlines the Service’s current strategy to recover all grizzly bears in the lower 48 states. Today’s announcement opens a 30-day public comment period, which will close on January 5, 2018. Comments may be submitted by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS–R6–ES–2017- 0089 FXES 11130900000C6-178-FF09E4200
- By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R6–ES–2017–0089; U.S. Fish & Wildlife Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

The Service will address public comments and notify the public of its conclusions by March 31, 2018. The GYE final delisting rule remains in effect and the status of grizzly bears throughout the rest of the range remains unchanged.

The recovery of the GYE grizzly bear population serves as a remarkable conservation success story. It is the result of strong partnerships among the Service, federal and state agencies, tribes and other partners. GYE grizzly bear numbers have rebounded from as few as 136 bears when listed in 1975 to an estimated population of approximately 700 today.

For further information about today’s announcement and the nature of comments being sought, please contact Hilary Cooley, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, University Hall, Room 309, Missoula, MT 59812; by telephone (406) 243-4903.

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FINAL EXAM, BIOE 440R and BIOE 521, Conservation Biology  
Due NOON TUESDAY DECEMBER 10<sup>th</sup>

Appended on the next page is the Notice of Regulatory Review (NORR) published in the *Federal Register* that describes the USFWS request for comments. It is also available here:

<https://www.fws.gov/mountain-prairie/es/species/mammals/grizzly/82%20FR%2057698%20regulatory%20review.pdf>

You have read the DPS Policy and the critical portions of the ESA (links are on class webpage in module 5). You have seen data on GYE grizzly bears, including long term population growth, changes in population growth rate beginning about 2002, and changes in resources (elk calves, cutthroat trout, army cutworm moths and white-barked pine). You have used count-based PVA to examine population dynamics based on GYE grizzly bear data. And because we are looking back at this decision after 2 years, you know that the bears were in fact briefly delisted in 2018 and then relisted.

The complete delisting decision from the Federal Register is available at:

<https://www.gpo.gov/fdsys/pkg/FR-2017-06-30/pdf/2017-13160.pdf>

For the final exam, write a comment suitable for submission to the USFWS

**Your comment can support any stance that is logical and consistent with the ESA, DPS and empirical data. It must:**

- **be at least 600 words**
- **include at least one relevant quote from the ESA,**
- **include at least one relevant quote from the DPS policy**
- **be supported by at least three pieces of information/data from the delisting decision or peer-reviewed papers.**

Give me a copy of your comment by TUESDAY DECEMBER 10<sup>th</sup> at noon. If I am not in my office (311-A Lewis, at the SE corner of the building down the little side hall), just put it in my mailbox in the main Ecology Department Office on the 3<sup>rd</sup> floor of Lewis Hall.



or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 17, 2017.

**Robert A. Kaplan,**  
*Acting Regional Administrator, Region 5.*  
[FR Doc. 2017-26304 Filed 12-6-17; 8:45 am]  
BILLING CODE 6860-60-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R6-ES-2017-0089;  
FXES111309000006-178-FF09E42000]

#### Endangered and Threatened Wildlife and Plants; Possible Effects of Court Decision on Grizzly Bear Recovery in the Conterminous United States

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Regulatory review; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are seeking public comment on a recent D.C. Circuit Court of Appeals ruling, *Humane Society of the United States, et al. v. Zinke et al.*, 865 F.3d 585 (D.C. Cir. 2017), that may impact our June 30, 2017, final rule delisting the Greater Yellowstone Ecosystem (GYE) grizzly bear Distinct Population Segment (DPS). In *Humane Society of the United States, et al. v. Zinke et al.*, the court opined that the Service had not evaluated the status of the remainder of the listed entity of wolves in light of the Western Great Lakes (WGL) wolf DPS delisting action and what the effect of lost historical range may have on the status of the WGL wolf DPS. We also describe in this notice our strategy to recover grizzly bears (*Ursus arctos horribilis*) in the lower 48 States of the United States and provide a brief recovery update for each ecosystem.

**DATES:** We will accept comments received or postmarked by the end of the day on January 8, 2018.

**ADDRESSES:** Comment submission: You may submit comments by one of the following methods:

- *U.S. mail or hand-delivery:* Public Comments Processing, ATTN: FWS-R6-ES-2017-0089, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, Virginia 22041-3803.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R6-ES-2017-0089.

**FOR FURTHER INFORMATION CONTACT:** Hilary Cooley, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, University Hall, Room 309, Missoula, MT 59812; by telephone (406) 243-4903. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at (800) 877-8339.

#### FOR FURTHER INFORMATION CONTACT:

Hilary Cooley, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, University Hall, Room 309, Missoula, MT 59812; by telephone (406) 243-4903. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

In 1975, the Service listed the grizzly bear (*Ursus arctos horribilis*) under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) as threatened in the lower 48 United States (40 FR 31734, July 28, 1975). On June 30, 2017, the Service published a final rule (82 FR 30502, June 30, 2017; RIN 1018-BA41) designating the GYE population of grizzly bears as a DPS, finding that the DPS was recovered, and removing that DPS from the Federal List of Endangered and Threatened Wildlife. The final rule became effective on July 31, 2017, and remains in effect. Grizzly bears in the remaining area of the lower 48 States remain listed as threatened under the ESA as amended. The status of any grizzly bear population may be changed only through formal rulemaking.

On August 1, 2017, the Court of Appeals for the District of Columbia Circuit issued a ruling, *Humane Society of the United States, et al. v. Zinke et al.*, 865 F.3d 585 (D.C. Cir. 2017), that affirmed the prior judgement of the district court vacating the 2011 delisting rule for wolves in the Western Great Lakes (WGL) (76 FR 81666, December 28, 2011). The 2011 rule designated the gray wolf population in Minnesota, Wisconsin, and Michigan, as well as portions of six surrounding States, as the WGL DPS, determined that the WGL DPS was recovered, and delisted the WGL as a DPS.

This court opinion may impact the GYE final rule, which also designated a portion of an already-listed entity as a DPS and then revised the listed entity

by removing the DPS due to recovery. Therefore, we are reviewing the potential implications for the GYE final rule in light of the *Humane Society* ruling. We are seeking public comment on this subject (see Request for Public Comments). Below we summarize our recovery strategy to assist the public in providing public comment on the impacts that *Humane Society* might have on grizzly bear.

#### Recovery Strategy

The grizzly bear was originally distributed in various habitats throughout Western North America from Central Mexico to the Arctic Ocean. Current distribution in the lower 48 States consists of five small populations with an estimated total population of 1,800 bears. The 1993 Grizzly Bear Recovery Plan (USFWS 1993, p. 15) identified seven grizzly bear ecosystems, including five with either self-perpetuating or existing populations and two additional areas, the Bitterroot Mountains in Idaho and the San Juan Mountains in Colorado, where grizzly bears are known to have existed in the recent past. While no resident population currently exists in the Bitterroot Ecosystem, that ecosystem contains adequate habitat to sustain a population. The Recovery Plan suggests that further evaluation is needed on the status of the San Juan Mountains, where no grizzly bears exist today (USFWS 1993, p.16).

The Service's overarching vision for recovery of grizzly bears in the lower 48 States, to recover and delist populations individually in each of the ecosystems as recovery is achieved, was outlined in the Recovery Plan (USFWS 1993, pp. 16, 33) and further discussed in our 2011 5-year status review (USFWS 2011, pp. 12-14). The review also found that the lower-48-State listing is consistent with our 1996 DPS Policy and recommended that the current entity, on the whole, should retain its threatened status (USFWS 2011, p. 104). We recognized that sufficient evidence exists to support multiple DPSs within the lower-48-State listing, but indicated that further subdivision of the lower-48-State listing was unnecessary at the time (USFWS 2011, p. 14). Prior to the 5-year status review, the Service had attempted to delist the GYE grizzly bear population as a DPS (72 FR 14866, March 29, 2007). That determination was subsequently vacated by the Federal District Court for the District of Montana (*Greater Yellowstone Coalition v. Servheen et al.*, 672 F.Supp. 2d 1105 (D. Mont. 2009)), and the vacatur was upheld by the Ninth Circuit in *Greater*

*Yellowstone Coalition v. Servheen, et al.*, 665 F.3d 1015 (9th Cir. 2011).

The 2011 5-year status review also committed to an evaluation of potential DPSs within the lower-48-State listing to determine whether they are near the point where rulemaking is warranted or appropriate (e.g., when recovery is achieved and delisting may be warranted; or when listing funds become available to address those populations for which we determined that reclassifying to endangered status was warranted but precluded) (USFWS 2011, p. 14). The GYE was the first ecosystem to achieve recovery and was the first population to be delisted.

#### Recovery Status

There are approximately 1,800 grizzly bears in the lower 48 States. The population and legal status under the ESA of each ecosystem is as follows:

(1) The GYE: Had approximately 695 bears in 2016 (Van Manen and Haroldson 2017, p. 3)—delisted due to recovery July 31, 2017 (82 FR 30502, June 30, 2017);

(2) The Northern Continental Divide Ecosystem: Had approximately 960 bears in 2014 (Costello *et al.* 2017, p. 2)—still listed as threatened (likely biologically recovered, although no decision has been made);

(3) The Selkirk Ecosystem: Had approximately 70–80 bears in 2016 (Kasworm *et al.* 2017)—still listed as threatened;

(4) The Cabinet Yaak Ecosystem: Had approximately 56 bears in 2016 (Kasworm *et al.* 2017)—warranted-but-precluded for uplisting to endangered (August 22, 2017, court order);

(5) The North Cascades Ecosystem (NCE): Contains no confirmed grizzly bears in the United States (U.S. DOI 2016) and an estimated 6 individuals in the adjacent British Columbia portion of the NCE (MFLNRO 2012)—warranted-but-precluded for endangered status (81 FR 87264, December 2, 2016);

(6) The Bitterroot Ecosystem: Currently unoccupied (IGBC 2015)—Nonessential Experimental Population Area (65 FR 69624, November 17, 2000).

#### Next Steps and Timing

The Service is evaluating the Court's ruling in *Humane Society of the United States, et al. v. Zinke et al.*, in the context of our final determination regarding the GYE grizzly bear final rule (82 FR 30502, June 30, 2017) to consider what impact, if any, the D.C. Circuit Court of Appeal ruling has on the GYE grizzly bear final rule and what further evaluation should be considered regarding the issues raised in *Humane Society*. We will address public

comments and notify the public of our conclusions by March 31, 2018. The GYE final delisting rule will remain in effect during this review process, and the status of grizzly bears throughout the rest of the range will remain unchanged.

#### Request for Public Comments

We invite written comments on the manner in which the *Humane Society* decision may affect the GYE grizzly bear final rule (82 FR 30502, June 30, 2017). Specifically, we are interested in public input on whether the *Humane Society* opinion affects the GYE grizzly bear final rule and what, if any, further evaluation the Service should consider regarding the remaining grizzly bear populations and lost historical range in light of the Service's decision regarding the GYE grizzly bear.

We request comments from any interested party that pertain to the issues raised in the preceding paragraph only. We will consider all comments received by the date specified in **DATES**. You must submit your comments and supporting materials by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax, or written comments sent to an address other than the one listed in **ADDRESSES**.

#### Public Availability of Comments

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request that we withhold this information from public review, but we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>. Comments and materials we receive will be available for public inspection at <http://www.regulations.gov>, or by appointment, during normal business hours, at the Grizzly Bear Recovery Office (see **FOR FURTHER INFORMATION CONTACT**).

#### References Cited

A complete list of all reference cited herein is available at <https://www.regulations.gov> in Docket No. FWS-R6-ES-2017-0089, or upon request from the Grizzly Bear Recovery Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authority:** This document is published under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 1, 2017.

**Stephen Guertin,**

Deputy Director, U.S. Fish and Wildlife Service, Exercising Authority of Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017-25095 Filed 12-6-17; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Chapter III

[Docket No. 170925842-7999-01]

RIN 0648-BH30

#### International Fisheries; Pacific Tuna Fisheries; Revised 2018 Commercial Fishing Restrictions for Pacific Bluefin Tuna in the Eastern Pacific Ocean; 2018 Catch Limit

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** The National Marine Fisheries Service (NMFS) is proposing regulations under the Tuna Conventions Act to revise trip limits on the commercial catch of Pacific bluefin tuna applicable to 2018. U.S. commercial fishing vessels are subject to a biennial limit for 2017 and 2018. Preliminary estimates indicate that the catch limit in 2018 is approximately 120 metric tons (mt). To avoid exceeding the biennial limit, NMFS is proposing a 1-mt trip limit—except for large-mesh drift gillnet vessels, which would be subject to a 2-mt trip limit—throughout 2018 or until the 2018 catch limit is reached and the fishery is closed. This action is necessary to contribute to the rebuilding of Pacific bluefin tuna and for the United States to satisfy its obligations as a member of the Inter-American Tropical Tuna Commission (IATTC).

**DATES:** Comments on the proposed rule and supporting documents must be submitted in writing by January 8, 2018.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2017-0128, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0128>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.