

441 G St. N.W.
Washington, DC 20548

B-333005

March 3, 2021

The Honorable Thomas R. Carper
Chairman
The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Raúl M. Grijalva
Chairman
The Honorable Bruce Westerman
Ranking Member
Committee on Natural Resources
House of Representatives

Subject: *Department of the Interior, Fish and Wildlife Service: Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (Canis lupus) From the List of Endangered and Threatened Wildlife*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Interior, Fish and Wildlife Service (Service) entitled “Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife” (RIN: 1018-BD60).¹ We received the rule on November 5, 2020. It was published in the *Federal Register* as a final rule and notification of petition finding on November 3, 2020. 85 Fed. Reg. 69778. The effective date is January 4, 2021.

According to the Service, the final rule removes the gray wolf entities in the lower 48 United States and Mexico, except for the Mexican wolf, that are currently on the List of Endangered and Threatened Wildlife. The Service stated it is taking this action because the best available scientific and commercial data available establish that the gray wolf entities in the lower 48 United States do not meet the definitions of a threatened species or an endangered species under the Endangered Species Act, 16 U.S.C. § 1531 *et seq.*

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The House of Representatives received the final rule on November 10, 2020. 166 Cong. Rec. H5866 (daily ed. Nov. 17, 2020). The Senate

¹ The due date for this major rule report was December 1, 2020. Due to a processing error on our part, we are delayed in our issuance of this report.

received the final rule on November 16, 2020. 166 Cong. Rec. S7505 (daily ed. Nov. 18, 2020). The final rule was published on November 3, 2020. 85 Fed. Reg. 69778. The final rule has a stated effective date of January 4, 2021. Therefore, the final rule does not have the required 60-day delay in effective date.

Enclosed is our assessment of the Service's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink, reading "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Maricela Constantino
Biologist, Branch of Delisting and Foreign Species
Department of the Interior

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE
ENTITLED
“ENDANGERED AND THREATENED WILDLIFE AND PLANTS;
REMOVING THE GRAY WOLF (CANIS LUPUS) FROM THE
LIST OF ENDANGERED AND THREATENED WILDLIFE”
(RIN: 1018-BD60)

(i) Cost-benefit analysis

In its submission to us, the Department of Interior, Fish and Wildlife Service (Service) indicated that it did not prepare an analysis of the costs and benefits of the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

In its submission to us, the Service indicated that it considered an analysis under RFA to be non-applicable.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

In its submission to us, the Service indicated that it considered an analysis under the Act to be non-applicable.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On March 15, 2019, the Service published a proposed rule. 84 Fed. Reg. 9648. The Service received comments on the proposed rule and addressed them in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

In its submission to us, the Service indicated that it considered an analysis under PRA to be non-applicable.

Statutory authorization for the rule

The Service promulgated the final rule pursuant to sections 1361-1407, 1531-1544, and 4201-4245 of title 16, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

In its submission to us, the Service indicated that it considered an analysis under the Order to be non-applicable.

Executive Order No. 13132 (Federalism)

In its submission to us, the Service indicated that it did not prepare an analysis of the final rule under the Order.