

**From:** [Becker, Scott A](#)  
**To:** [Gary Skiba](#)  
**Bcc:** [Alt, Nicole](#)  
**Subject:** Re: [EXTERNAL] Colorado Proposed 10(j)  
**Date:** Wednesday, March 22, 2023 3:49:00 PM

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Howdy Gary - may provide a quick answer in response to your question here because I need to get ready for this evening, but would be happy to visit more tomorrow if necessary.

The definition of harass you provided below is specific to harassment in regards to take of an endangered species. Although it may be used to interpret the definition of harassment and/or molestation of livestock, I will have to do some further digging to see if it has been clearly defined in past 10j rules as I cannot remember off the top of my head.

Regardless of definition, the key points are also found in the bullet you sent in that evidence must support the claim if a wolf is injured or killed as a result of the action. If not, it will be handed to the appropriate authorities. In some situations, evidence may be harder to come by. As a result, this continues to be a point of outreach and education when this topic is discussed in meetings; that there must be evidence to support the claim. Although it is hard to think about in the heat of the moment, other options are available that reduce the likelihood of injury or death in those circumstances, but may still stop the potential depredation in that moment - also, an education and outreach component. Any mortality of this kind will have a law enforcement presence during the investigation as well. In my experience, although the overall number is low, most wolves removed under these circumstances have been under the authority of a limited duration permit.

Hope that helps a bit, but if not, please give me a shout tomorrow and I'd be happy to discuss further. Thanks.

scott

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**From:** Gary Skiba <[gary@sanjuancitizens.org](mailto:gary@sanjuancitizens.org)>

**Sent:** Wednesday, March 22, 2023 11:33 AM  
**To:** Becker, Scott A <scott\_becker@fws.gov>  
**Subject:** [EXTERNAL] Colorado Proposed 10(j)

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Scott:

Hi, this is Gary Skiba, a member of the Colorado SAG.

I'm reviewing the proposed Colorado wolf 10(j) rule and have a question that you may be able to answer.

One of the allowances for take is:

Taking wolves "in the act of attacking" livestock on PRIVATE land (there is a similar allowance on public land)

*Consistent with State or Tribal requirements, any landowner may take (injure or kill) a gray wolf in the act of attacking (wounding, harassing, molesting, or killing) livestock or dogs (working or pet) on their private land. Any wolf taken in the act must be reported to the Service or our designated agent within 24 hours. The carcass and surrounding area must not be disturbed in order to preserve physical evidence that the livestock or dogs were recently attacked by a wolf or wolves. The Service or our designated agent must be able to confirm that the livestock or dog were wounded, harassed, molested, or killed by a wolf or wolves. The taking of any wolf without such evidence may be referred to the appropriate authorities for prosecution.*

I don't have any problem with the "in the act of attacking" part, but I don't know how harassing and molesting are defined or interpreted. In the SAG, we defined attacking as "teeth on " so that a producer would have to demonstrate an actual physical attack. Per the definition of "harass" used by FWS (*italics below*) and the interpretation of "molest" which as far as I know isn't defined in the regulations, it would seem that a producer could claim harassment or molestation from a wolf simply walking through a pasture while showing no interest in livestock, as they could argue that it significantly disrupted the behavior of the livestock.

So the key question, assuming that a similar allowance existed in the northern Rockies 10(J) is how was it interpreted? I can't see any way that there would be enough evidence to demonstrate harassment that justifies lethal removal, but conversely there wouldn't be enough evidence to **dis**-prove it.

If the interpretation is similar to the SAG's "teeth on" standard, no worries. If not, there are worries.

Thanks for any guidance you may have.

Gary

**50 CFR § 17.3**

*Harass in the definition of “take” in the Act means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.*

[illegible]

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