

may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *E. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

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

Environmental protection, Air pollution control, Intergovernmental relations, Sulfur oxides, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: May 8, 2001.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 01-14082 Filed 6-4-01; 8:45 am]

**BILLING CODE 6560-50-U**

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

#### **Endangered and Threatened Wildlife and Plants; Notice of Availability of a Genetics Study for the Status Review of the Yellow-billed Cuckoo in the Western United States and Reopening of Comment Period**

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

**ACTION:** Notice of availability and reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), in conjunction with the United States Geological Service (USGS), announce the availability of a genetics study entitled the "Taxonomic and Evolutionary Significant Unit (ESU) Status of Western Yellow-billed Cuckoos (*Coccyzus americanus*). This study, contracted by both agencies, was prepared by Dr. Robert Fleischer of the National Zoological Park, Smithsonian Institute, Washington DC.

We are also providing notice of the reopening of the comment period for the 12-month finding on a petition to list this species as endangered to allow all interested parties to comment simultaneously on the 90-day petition and study. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this reopened comment period, and will be fully considered in the 12-month petition finding.

**DATES:** We will accept public comments until June 20, 2001.

**ADDRESSES:** Persons wishing to review the study may receive a copy by contacting the Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, California 95825. Written comments and information should be submitted to the Field Supervisor at the address above. For electronic mail address and further instructions on commenting, refer to the Public Comments Solicited section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Dwight Harvey or Stephanie Brady at the Sacramento Fish and Wildlife Office, at the above address (telephone 916/414-6600).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On February 17, 2000, we published in the **Federal Register** a 90-day finding on a petition to list the yellow-billed cuckoo (*Coccyzus americanus*) as endangered, pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*) (65 FR 8104). We determined that the petition presented substantial information that the listing of the yellow-billed cuckoo may be warranted, and initiated a status review which will result in a 12-month finding at the conclusion of the review. The information presented suggested that the yellow-billed cuckoo may be endangered in a significant portion of its range (i.e., the western United States), and that the western United States represents the range of a valid subspecies, termed the western yellow-billed cuckoo. In our 90-day petition

finding, while we determined that the listing of the yellow-billed cuckoo may be warranted, the taxonomy of the species is unclear.

To clarify the validity and range of a western subspecies, the Service and USGS solicited proposals for a genetic analysis throughout the species breeding range in the United States and Mexico. We selected and funded a proposal submitted by Dr. Robert Fleischer of the Smithsonian Institution from a total of five proposals. We received the final genetics study prepared by Dr. Fleischer on April 24, 2001.

#### **Public Comments Solicited**

We will accept written comments and information during this reopened comment period. If you wish to comment, you may submit your comments and materials by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, California 95825.

(2) You may send comments by electronic mail (e-mail) to: FW1YBC@fws.gov. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Sacramento Fish and Wildlife Office at telephone number 916/414-6600.

(3) You may hand-deliver comments to our Sacramento Fish and Wildlife Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the 12-month petition finding to list the yellow-billed cuckoo, will be available for inspection, by appointment, during normal business hours at the address listed under (1) above. Copies of the study and the 90-day petition finding are available by writing to the Field Supervisor at the address under (1) above.

#### **Author(s)**

The primary authors of this notice are Stephanie Brady (see **ADDRESSES** section), and Barbara Behan, U.S. Fish and Wildlife Service, Regional Office, 911 N.E. 11th Avenue, Portland, Oregon 97232.

**Authority:** The authority for this action is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: May 30, 2001.

**Alexandra Pitts,**

*Acting Manager, California and Nevada  
Operations Office.*

[FR Doc. 01-14052 Filed 6-4-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 010515128-1128-01; I.D.  
041801C]

#### Fisheries of the Northeastern United States; Black Sea Bass Fishery

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

**ACTION:** Advance notice of proposed  
rulemaking; notice of a control date for  
the purposes of controlling capacity or  
latent effort in the black sea bass  
commercial fishery.

**SUMMARY:** NMFS announces that it is  
considering, and is seeking public  
comment on, a proposed rulemaking to  
place additional controls on access to  
the black sea bass (*Centropristis striata*)  
fishery under the Magnuson-Stevens  
Fishery Conservation and Management  
Act (Magnuson-Stevens Act). This  
announcement is intended, in part, to  
discourage speculative increases in  
effort or capacity while the Mid-Atlantic  
Fishery Management Council (Council)  
and NMFS are considering whether and  
how to additionally control access in  
this fishery. The date of publication of  
this announcement, June 5, 2001, shall  
be known as the control date and may  
be used for establishing revised  
eligibility criteria for participation in  
the fishery; i.e., the level of fishing  
activity after this date will not  
necessarily be used for future eligibility  
criteria.

**DATES:** Written comments must be  
received on or before 5 p.m., local time,  
July 5, 2001.

**ADDRESSES:** Written comments should  
be sent to Daniel T. Furlong, Executive  
Director, Mid-Atlantic Fishery  
Management Council, Room 2115  
Federal Building, 300 South Street,  
Dover, DE 19904. Mark the outside of

the envelope, "Comments on Black Sea  
Bass Control Date." Comments also may  
be sent via facsimile (fax) to (302) 674-  
5399. Comments will not be accepted if  
submitted via e-mail or the Internet.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer L. Anderson, Fishery  
Management Specialist, (978) 281-9226,  
e-mail: Jennifer.Anderson@noaa.gov or  
Christopher M. Moore, Ph.D., Deputy  
Director, Mid-Atlantic Fishery  
Management Council, (302) 674-2331.

**SUPPLEMENTARY INFORMATION:** The black  
sea bass fishery is a major fishery on the  
Atlantic coast that extends from Cape  
Hatteras north to Maine. Regulations  
implementing Amendment 9 to the  
Summer Flounder, Scup, and Black Sea  
Bass Fishery Management Plan (FMP)  
(61 FR 58461, November 16, 1996)  
control fishing mortality on black sea  
bass through a variety of management  
measures including a commercial quota,  
a limit on the number of commercial  
permits, gear regulations, and minimum  
fish size restrictions.

The most recent assessment on black  
sea bass, completed in June 1998,  
indicates that black sea bass are over-  
exploited and at a low biomass level  
(27th Stock Assessment Workshop).  
However, more recent results from the  
Northeast Fisheries Science Center's  
spring survey indicate that the black sea  
bass biomass has increased in recent  
years. In fact, the preliminary biomass  
index for 2000 is the highest in the time  
series since 1976.

Commercial landings of black sea  
bass, which are harvested in Federal  
and state waters using a variety of gears,  
have varied without trend since 1981,  
ranging from a low of 2.0 million lb  
(907.2 mt) in 1994, to a high of 4.3  
million lb (1950.4 mt) in 1984. Since  
1998, commercial landings have been  
constrained by quotas at an annual level  
of 3.025 million lb (1372.1 mt).

A moratorium on the entry of  
additional commercial vessels into the  
black sea bass fishery was put in place  
on November 16, 1996, with the  
implementation of Amendment 9 to the  
FMP. However, the qualifying criteria  
for obtaining initial permits under the  
moratorium were liberal and only  
required that vessels provide a black sea  
bass landing receipt demonstrating at  
least 1 lb (0.45 kg) of black sea bass  
landed between January 26, 1989, and  
January 26, 1993. Based on this  
criterion, a number of vessels attained a  
permit even though those vessels only

rarely or occasionally landed black sea  
bass during this period. There were 992  
and 974 Federal black sea bass permit  
holders in 1999 and 2000, respectively.  
Based on dealer reports, 795 and 727 of  
these vessels in 1999 and 2000,  
respectively, landed black sea bass.  
However, 83 percent of the permit  
holders participating in the black sea  
bass fishery in 1999 accounted for less  
than 9 percent of the black sea bass  
landings. The 1999 fishing year is the  
last full fishing year of complete  
landings information.

The management measures for black  
sea bass implemented under  
Amendment 9 to the FMP have begun  
to rebuild the black sea bass stock.  
Although the Council and NMFS are  
concerned that increasing stock  
abundance may stimulate the use of  
unused capacity or effort by permit  
holders, there is equal concern that  
management measures have reduced  
fishing opportunities and income for  
commercial fishermen who have  
historically depended on black sea bass  
for a major portion of their income. An  
activation of latent effort could quickly  
erode the benefits to traditional  
operators who have sacrificed income as  
part of the rebuilding program.

A control date of June 5, 2001 is  
intended to discourage speculative  
activation of previously unused effort or  
capacity in the black sea bass fishery  
while alternative allocation schemes  
and potential management regimes to  
control capacity or latent effort are  
discussed and possibly developed and  
implemented. The control date may be  
used by the Council and NMFS in  
determining historical or traditional  
participation in the black sea bass  
fishery. The control date communicates  
to black sea bass permit holders that  
performance or fishing effort after that  
date may not be treated the same as  
performance or effort that was expanded  
prior to the control date. The Council  
and NMFS could choose different and  
variably weighted methods to qualify  
fishermen based on the type and length  
of participation in the fishery or on the  
quantity of landings. A control date  
does not commit the Council or NMFS  
to develop any particular management  
regime or criteria for participation in  
this fishery. The Council or NMFS may  
choose a different control date, or may  
choose a management program that does  
not make use of such a date.