

document for establishing an accurate current baseline to be used to evaluate future population status changes.

### Conclusions

On December 17, 2004, Judge Figa (U.S. District Court of Colorado) ordered the USFWS to complete a 12-month status review for YCT. As a result, we have done so and present our conclusions in this notice, and in more detail in the accompanying status review (USFWS 2006). The information we have summarized includes substantial amounts of new information not analyzed or reported in our previous 90-day finding (66 FR 11244), particularly that obtained from the status report of May *et al.* (2003). That information indicates at least 195 extant YCT conservation populations, qualifying as YCT under the standards we have adopted, collectively occupy 10,220 km (6,352 mi) of stream and lake habitat in Idaho, Montana, Wyoming, Utah, and Nevada. Those 195 YCT populations are distributed among 35 component watersheds in the Snake and Yellowstone River basins, within the international boundaries of the United States.

Of those 195 conservation populations, about 133 were considered likely to qualify as potential "core conservation populations" comprised of nonintrogressed YCT (99 percent genetic purity standard; see Discussion of Hybrid YCT in Listing Determinations at the beginning of the status review [USFWS 2006]). If, after further genetic testing the existence of approximately 133 core conservation populations is verified, then those populations would include about 3,009 km (1,870 mi) of habitat encompassing about 29 percent of the existing range of conservation populations of YCT.

Although the distribution of YCT has been reduced from historic levels and existing populations face threats in several areas of the historic range, we find that the magnitude and imminence of those threats do not compromise the continued existence of the subspecies within the foreseeable future (which we define as 20–30 years). Many former threats to YCT, such as those posed by excessive harvest by anglers or the ongoing stocking of nonnative fishes, are no longer factors that threaten the continued existence of YCT. That is not to downplay the active legacy of past fish stocking activities, but current programs have been revised to avoid further impacts. The effects of other extant threats, especially those to habitat, may be effectively countered, at least in part, by the ongoing management actions of State and

Federal agencies. These actions occur in conjunction with application of existing regulatory mechanisms. It is largely too soon to judge the overall long-term effectiveness of those actions, though some positive signs are present. At the least, we conclude that active loss of habitat has been minimized.

Nonetheless, hybridization with nonnative rainbow trout or their hybrid progeny and descendants, both of which have established self-sustaining populations in many areas in the range of YCT, remains an active threat in the form of introgression to YCT conservation populations. The eventual extent that hybridization occurs in YCT habitat may be stream-specific and impossible to predict. Nonetheless, the criteria that we adopted for inclusion of individual fish or populations as YCT, following the lead of past actions (see WCT finding in USFWS 2003; 66 FR 46989) and consistent with the genetic standards adopted by the State fishery managers (Utah Division of Wildlife Resources 2000), allow for the limited presence in YCT conservation populations of genetic material from other fish species. We view this as consistent with the intent and purpose of the ESA.

The YCT remain widely distributed and there are numerous robust YCT populations and metapopulations throughout the subspecies' historic range. Moreover, numerous nonintrogressed YCT populations are distributed in secure habitats throughout the subspecies' historic range. In addition, despite the frequent occurrence of introgressive hybridization, we find that some YCT populations that are sympatric with rainbow trout are nonintrogressed or nearly so, and thus retain substantial portions of their genetic ancestry, apparently due to temporal, behavioral, or spatial reproductive isolation. We consider slightly introgressed YCT populations, with low amounts of genetic introgression detectable only by molecular genetic methods, to be a potentially important and valued component of the overall YCT (*i.e.*, "conservation populations").

Finally, the numerous ongoing YCT conservation efforts clearly demonstrate the broad interest in protecting YCT held by State, Federal, Tribal, local, and nongovernmental organizations and other entities. However, those ongoing conservation efforts, while important, are not pivotal to our decision whether or not to propose to list the YCT as either a threatened or an endangered species under the ESA. That decision is based mainly on the present-day status and trend of YCT, the mitigation of

many of the existing threats, and the occurrence of the numerous extant laws and regulations that work to prevent the adverse effects of land-management and other activities on YCT, particularly on those lands administered by Federal agencies.

On the basis of the best available scientific and commercial information, which has been broadly discussed in this notice and detailed in the documents contained in the Administrative Record for this decision, we conclude that the YCT is not endangered (threatened with extinction within the foreseeable future), nor is it threatened with becoming endangered within the foreseeable future. Therefore, listing of the YCT as a threatened or an endangered species under the ESA is not warranted at this time.

### References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor at the Montana Ecological Services Office (see ADDRESSES).

### Author

The primary author of this document is the Montana Ecological Services Office (see ADDRESSES).

### Authority

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

Dated: February 14, 2006.

**H. Dale Hall,**

*Director, Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[I.D. 021306C]

RIN 0648–AS70

#### **Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Limited Access Program for Gulf Charter Vessels and Headboats**

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

**ACTION:** Announcement of availability of fishery management plan amendments; request for comments.

**SUMMARY:** NMFS announces the availability of Amendment 17 to the Fishery Management Plan for the Coastal Migratory Pelagic (CMP) Resources of the Gulf of Mexico and South Atlantic (Amendment 17) and Amendment 25 to the Fishery Management Plan for the Reef Fish Resource of the Gulf of Mexico (Amendment 25), prepared by the Gulf of Mexico Fishery Management Council (Council). Amendments 17 and 25 would establish a limited access system for the Gulf of Mexico charter vessel/headboat (for-hire) permits for the reef fish and CMP fisheries in the exclusive economic zone of the Gulf of Mexico and would continue to cap participation at current levels. The intended effect of Amendments 17 and 25 is to support the Council's efforts to achieve optimum yield in the fishery and provide social and economic benefits associated with maintaining stability in these for-hire fisheries.

**DATES:** Written comments must be received no later than 5 p.m., eastern time, on April 24, 2006.

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: [0648-AS70.NOA@noaa.gov](mailto:0648-AS70.NOA@noaa.gov). Include in the subject line the following document identifier: 0648-AS70-NOA.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Jason Rueter, Southeast Regional Office, NMFS, 263 13<sup>th</sup> Avenue South, St. Petersburg, FL 33701.

- Fax: 727-824-5308, Attention: Jason Rueter.

Copies of Amendments 25 and 17, which include a Supplemental Environmental Impact Statement, a Regulatory Impact Review, and an Initial Regulatory Flexibility Analysis, are available from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; e-mail: [gulfcouncil@gulfcouncil.org](mailto:gulfcouncil@gulfcouncil.org).

**FOR FURTHER INFORMATION CONTACT:**

Jason Rueter, 727-824-5305; fax 727-824-5308; e-mail: [jason.rueter@noaa.gov](mailto:jason.rueter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Charter vessel permits were initially required in the CMP fishery in 1987 and the reef fish fishery in 1997. A joint amendment establishing the charter vessel/headboat permit moratorium for the CMP fishery (Amendment 14) and the reef fish fishery (Amendment 20) was approved by NMFS on May 6, 2003, and implemented on June 16, 2003 (68 FR 26280). The intended effect of these amendments was to cap the number of for-hire vessels operating in these two fisheries at the current level (as of March 29, 2001) while the Council evaluated whether limited access programs were needed to constrain effort. The moratorium is set to expire on June 16, 2006. These amendments, if

implemented would establish a limited access program.

A proposed rule that would implement the measures outlined in Amendments 17 and 25 has been received from the Council. In accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Comments received by April 24, 2006, whether specifically directed to the Amendments 17 and 25 or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendments. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendments or the proposed rule during their respective comment periods will be addressed in the final rule.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: February 14, 2006.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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