

for the reasons provided above. EPA is also proposing full approval under CAA 110 of the rest of the RACT II Rule included for incorporation in the Pennsylvania SIP through PADEP's May 16, 2016 SIP submittal, as EPA finds that the remainder of the RACT II Rule meets the intended RACT requirements under sections 172, 182, 184 and 110 of the CAA for the 1997 and 2008 ozone NAAQS.

#### IV. Proposed Action

EPA's review of the Pennsylvania May 16, 2016 SIP submittal indicates that certain portions of the submittal are adequate to meet RACT requirements under the CAA for both the 1997 and 2008 8-hour ozone NAAQS. EPA is proposing to fully approve into the SIP the provisions in 25 Pa. Code sections 129.96–129.97, and 129.100 of the RACT II Rule and relevant definitions in 25 Pa. Code section 121.1, adopted by Pennsylvania on April 23, 2016, as meeting RACT for the 1997 and 2008 ozone NAAQS. These provisions are adequate to meet the ozone-specific RACT requirements of sections 172, 182(b)(2)(C), 182(f), and 184 of the CAA for both the 1997 and 2008 8-hour ozone NAAQS for specific NO<sub>x</sub> and VOC sources in Pennsylvania, and in accordance with section 110.

In addition, EPA is proposing to conditionally approve 25 Pa. Code sections 129.98 and 129.99, as these provisions provide alternative RACT requirements which require further PADEP and EPA action in order to meet RACT requirements under the CAA. The provisions of 25 Pa. Code sections 129.98 and 129.99 will become fully approvable, if PADEP submits to EPA, within 12 months of EPA's final action, additional SIP revisions that include any alternative NO<sub>x</sub> averaging limits and source-specific RACT limits adopted under sections 129.98 and 129.99, respectively, as well as any relevant compliance demonstration requirements. Once EPA has determined that PADEP has satisfied this condition, EPA shall remove the conditional nature of its approval and, at that time, the provisions in 25 Pa. Code sections 129.98 and 129.99 will receive a full approval status. Should PADEP fail to meet this condition, the final conditional approval of 25 Pa. Code sections 129.98 and 129.99 will convert to a disapproval. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

#### IV. Incorporation by Reference

In this proposed rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the regulatory provisions of 25 Pa. Code sections 129.96–129.100 of the RACT II Rule and related amendments of 25 Pa Code section 121.1, as adopted by Pennsylvania on April 23, 2016. EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, concerning Pennsylvania's 1997 and 2008 8-hour ozone reasonably available control technology for certain major NO<sub>x</sub> and VOC sources, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

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

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

Dated: February 23, 2018.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

[FR Doc. 2018-04933 Filed 3-13-18; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R2-ES-2016-0110; FXES1113090000 178 FF09E42000]

RIN 1018-BB79

#### Endangered and Threatened Wildlife and Plants; Removing the Black-Capped Vireo From the Federal List of Endangered and Threatened Wildlife; Availability of Post-DeListing Monitoring Plan

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

**ACTION:** Proposed rule; availability of supplemental information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the

availability of our draft post-delisting monitoring (PDM) plan for the black-capped vireo (*Vireo atricapilla*). The draft PDM plan describes the methods we propose to monitor the status of the vireo and its habitat, in cooperation with the States of Texas and Oklahoma and other conservation partners, for a 12-year period if we remove this species from the Federal List of Endangered and Threatened Wildlife. The draft PDM plan also provides a strategy for identifying and responding to any future population declines or habitat loss. We are accepting comments on the draft PDM plan.

**DATES:** We will accept comments on the draft PDM plan for black-capped vireo until April 13, 2018.

**ADDRESSES:** *Document availability:* The draft PDM plan is available for review on the internet at [www.regulations.gov](http://www.regulations.gov) in Docket No. FWS-R2-ES-2016-0110 and at <http://endangered.fws.gov> and <https://www.fws.gov/southwest/es/ArlingtonTexas/>. To request a copy of the draft PDM plan, contact us at U.S. Fish and Wildlife Service, Arlington Ecological Services Field Office, 2005 NE Green Oaks Blvd., Suite 140, Arlington, TX 76006; telephone 817-277-1100; facsimile 817-277-1129; [ARLES@fws.gov](mailto:ARLES@fws.gov). Supporting documentation we used in preparing the draft PDM plan is available for public inspection, by appointment, during normal business hours, at the above office.

*Comment submission:* You may submit comments on the draft PDM plan by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-R2-ES-2016-0110, which is the docket number for this rulemaking. Then, click on the Search button. You may submit a comment by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-R2-ES-2016-0110, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Request for Public Comments, below, for more information).

**FOR FURTHER INFORMATION CONTACT:** Debra Bills, U.S. Fish and Wildlife Service, Arlington Ecological Services Field Office (see **ADDRESSES**). If you use a telecommunications device for the

deaf (TDD), call the Federal Relay Service at 800/877-8339.

**SUPPLEMENTARY INFORMATION:**

**Background**

The black-capped vireo is an insectivorous songbird that breeds in Oklahoma, Texas, and northern Mexico, and winters along the western coastal states of Mexico. The vireo was listed as endangered under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), in 1987, due primarily to nest parasitism by brown-headed cowbirds (*Molothrus ater*) and loss of habitat from urbanization, grazing, removal of vegetation for range improvement, and succession (52 FR 37420, October 6, 1987).

On December 15, 2016, we published a proposed rule to remove the black-capped vireo from the Federal List of Endangered and Threatened Wildlife (List) (81 FR 90762). Our proposed rule was based largely on the Species Status Assessment (SSA) Report, which characterized the overall species' viability in the future. In the SSA Report, the impact of brown-headed cowbird parasitism on certain locations was expressed in terms of sustainability and expansion of populations. Additionally, the black-capped vireo was identified as "conservation-reliant" due to successful recovery actions being implemented, largely cowbird management. In this document, we provide clarification to the information regarding cowbird management.

The Service believes cowbird management was a major factor leading to the recovery of the species, and the importance of cowbird management was discussed in the SSA Report. Particularly, the black-capped vireo population in Oklahoma and localities in the eastern portion of the Texas range may be reliant on cowbird management periodically, or perpetually, to ensure minimal losses of current population numbers. In this regard, we assume the species may be "conservation reliant," due to efforts necessary to retain healthy shrublands and reduce brown-headed cowbird parasitism under certain conditions in portions of the range. Based on the comprehensive information collected for the SSA Report, there is inherent uncertainty in forecasting future threats and population status scenarios over a 50-year timeframe. To address this uncertainty and ensure that the black-capped vireo continues to prosper, the SSA Report noted the importance of continued management of known populations of the species. To further this recommendation, the Service has obtained mutual commitments with

many of our partners in the form of cooperative management agreements or other strategies to continue to manage known populations of the black-capped vireo and implement the PDM plan. These cooperative management agreements are included in the PDM plan, and provide assurances that PDM will detect trends in the black-capped vireo status and threats and the species' biological status will continue to improve.

In addition, we have corrected errors in Table 14 of the SSA Report (page 105). This table presented the results of forecast scenarios under short- and long-term managed and unmanaged conditions from Table 13, which is correct. Among the corrections to Table 14 was the shifting of one "likely resilient locality" in the short-term worst-case scenario between recovery units, and identifying one less "manageable locality" in the long-term worst-case scenario. These corrections do not change the results of the SSA analysis. The SSA with the corrected table is included in the docket (FWS-R2-ES-2016-0110) for the proposed rule on [www.regulations.gov](http://www.regulations.gov) and can also be accessed at <https://www.fws.gov/southwest/es/ArlingtonTexas/>.

For more background information on the black-capped vireo, refer to our Black-capped Vireo Species Status Assessment (SSA) Report available in the docket (FWS-R2-ES-2016-0110) for the proposed rule on [www.regulations.gov](http://www.regulations.gov) and also at <https://www.fws.gov/southwest/es/ArlingtonTexas/>.

The Act, section 4(g)(1), requires us to implement a system, in cooperation with the States, to effectively monitor the status of each species we remove from the Federal Lists of Endangered and Threatened Wildlife and Plants due to recovery. The monitoring must occur for at least 5 years. The PDM's purpose is to verify that a species we delist due to recovery remains secure from risk of extinction after we remove the Act's protections.

To fulfill the PDM requirement, we drafted a black-capped vireo monitoring plan in cooperation with the Texas Parks and Wildlife Department, Oklahoma Department of Wildlife Conservation, Fort Hood and Fort Sill Military Installations, and The Nature Conservancy of Texas. Over a 12-year period, we propose to monitor abundance trends at managed localities with known populations of greater than 30 adult male vireos, estimate population trends at 4 major localities, and monitor the residual threats of brown-headed cowbird parasitism, land

use changes, and densities of livestock and deer.

Abundance monitoring would focus on known black-capped vireo localities under some form of management and for which the SSA Report forecasted future persistence. Through monitoring these localities, we can track abundance trends and compare those to the SSA Report forecasts. Additionally, four major localities with several years of population trend data will continue to be monitored to detect changes in trends over the 12-year period. In conjunction with abundance monitoring, a subset of vireo nests will be monitored to determine brown-headed cowbird parasitism rates at these localities. The PDM plan defines monitoring thresholds which, if reached, may result in additional actions. The monitoring thresholds are based on maintaining resiliency, redundancy, and representation, as described in the black-capped vireo SSA Report. Land use trends, livestock, and deer within the vireo's range will also be monitored to ensure we detect changes that may affect the species.

The draft PDM plan includes both interim and final reporting requirements. If PDM results in a concern regarding the vireo's status or increasing threats, possible responses may include an extended or intensified monitoring effort, additional research, or an increased effort to improve habitat and reduce the threat. If future information collected from the PDM, or any other reliable source, indicates an increased likelihood that the species may become in danger of extinction, we will initiate a black-capped vireo status review and determine if re-listing the species is warranted.

In addition to public review of the draft PDM plan, we are requesting independent expert peer review from knowledgeable individuals with scientific expertise that includes knowledge of song bird ecology and conservation biology principles. Draft PDM plan peer review is in accordance with our policy "Notice of Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities," published on July 1, 1994 (59 FR 34270).

#### Viewing Documents

Comments and materials we receive from the public and peer reviewers, as well as supporting documentation we used in preparing the draft PDM plan, will be available for public inspection by appointment, during normal business hours at the Arlington Ecological Services Field Office (see **ADDRESSES**) and on the internet at

[www.regulations.gov](http://www.regulations.gov) in Docket No. FWS-R2-ES-2016-0110. Once approved, the final black-capped vireo PDM plan and any future PDM plan revisions will be available at [www.regulations.gov](http://www.regulations.gov) and on our web page (<http://endangered.fws.gov>) and the Arlington Ecological Services Field Office web page (<https://www.fws.gov/southwest/es/ArlingtonTexas/>).

#### Request for Public Comments

We intend for our final PDM plan to be as accurate and as effective as possible. Therefore, we request comments or suggestions on this black-capped vireo draft PDM plan from the public, concerned governmental agencies, the scientific community, industry, or any other interested party. We will take into consideration substantive comments we receive by the comment due date (see **DATES**). These comments, and any additional information we receive, may lead us to develop a final PDM plan that differs from this draft PDM plan. If you have already submitted a comment in response to the proposed rule, the comment has been incorporated into the record for the rulemaking, is being considered, and does not need to be submitted again.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire document—including your personal identifying information—may be made publicly available at any time. While you may request at the top of your document that we withhold this information from public review, we cannot guarantee that we will be able to do so.

#### Authors

The primary authors of this document are staff at the Arlington Ecological Services Field Office (see **ADDRESSES**).

#### Authority

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

Dated: February 7, 2018.

#### James W. Kurth.

*Deputy Director, U.S. Fish and Wildlife Service Exercising the Authority of the Director, U.S. Fish and Wildlife Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

RIN 0648-BG75

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Electronic Reporting for Federally Permitted Charter Vessels and Headboats in Atlantic Fisheries

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

**ACTION:** Notice of availability (NOA); request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (South Atlantic Council) and Gulf of Mexico (Gulf) Fishery Management Council (Gulf Council) have submitted the For-hire Reporting Amendment for review, approval, and implementation by NMFS. The For-hire Reporting Amendment includes Amendment 27 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagic (CMP) Resources of the Gulf and Atlantic Region (CMP FMP), Amendment 9 to the FMP for the Dolphin and Wahoo Fishery off the Atlantic States (Dolphin Wahoo FMP), and Amendment 39 to the FMP for Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). If approved by the Secretary of Commerce, the For-hire Reporting Amendment would establish new, and revise existing, electronic reporting requirements for federally permitted charter vessels and headboats (for-hire vessels), respectively. The For-hire Reporting Amendment would require a charter vessel with a Federal charter vessel/headboat permit for Atlantic CMP, Atlantic dolphin and wahoo, or South Atlantic snapper-grouper species to submit an electronic fishing report weekly, or at shorter intervals if notified by NMFS, through NMFS approved hardware and software. The For-hire Reporting Amendment would also reduce the time allowed for headboats to submit an electronic fishing report. The purpose of the For-hire Reporting Amendment is to increase and improve fisheries information collected from federally permitted for-hire vessels in the Atlantic. The information is expected to improve recreational fisheries management of the for-hire component in the Atlantic.