

to approve them into the SIP, except for the revisions to section 74:36:13:08, which we indicated cannot be approved into the SIP.

*K. Chapter 74:36:16 SDAPCP—Acid Rain Program*

The State's May 6, 1999 and June 30, 2000 submittals revise provisions of the State's acid rain rules. We have not previously included the State's acid rain provisions in the SIP. We believe we have no legal basis in the Act for approving these rules into the SIP. Therefore, we are not proposing to incorporate the May 6, 1999 or June 30, 2000 revisions to the acid rain rules into the SIP.

## II. Final Action

We are proposing to partially approve and partially disapprove portions of the revisions to South Dakota's Air Pollution Control Regulations submitted by the Governor's designee on May 6, 1999 and June 30, 2000, except for the following provisions that we are not acting on, or have acted on previously. The sections of the rules that we are proposing to approve will replace the same numbered sections that have been previously approved into the SIP. We are not acting on the following as SIP revisions because they are not appropriate to be included in the SIP: sections 74:36:07:06.01; 74:36:07:34–42.01; and 74:36:13:08; and chapters 74:36:05, 74:36:08, and 74:36:16.

The SIP provisions that we previously acted on: 74:36:07:06.2, 74:36:07:07.01, 74:36:07:11 (repealed), 74:36:07:43, and 74:36:11:04.

Also, the State made revisions to previously approved 111(d) plans. Specifically, section 74:36:07:06.01 was updated to incorporate by reference 40 CFR part 60, as of July 1, 1998 and sections 74:36:07:34–42:01 were updated to incorporate by reference 40 CFR part 60, as of July 1, 1999. We are proposing to approve these revisions to the 111(d) plans.

We are proposing to approve the removal of chapter 74:36:08 from the SIP and updating the table in 40 CFR 61.04(c)(8) to indicate that the 40 CFR part 61 NESHAPS are now delegated to the State.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. We believe the South Dakota SIP revisions that are the subject of this document will not interfere with any applicable

requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act because the State's revisions are as no less stringent than requirements currently contained in their SIP. Additionally, currently there are no nonattainment areas in South Dakota.

## III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045

"Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## List of Subjects

### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

### 40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Vinyl chloride.

### 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: January 13, 2003.

**Robert E. Roberts,**

*Regional Administrator, Region VIII.*

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**BILLING CODE 6560–50–P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 635****[I.D. 010903D]****Atlantic Highly Migratory Species (HMS); Issues and Options paper for Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (HMS FMP); Shark Management Measures**

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

**ACTION:** Notice of availability (NOA) of an issues and options paper; notice of public scoping meetings; request for comments.

**SUMMARY:** NMFS announces the availability of a paper on issues and options for Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks. The issues-and-options paper examines management options to rebuild or prevent overfishing of Atlantic sharks, consistent with the large coastal sharks (LCS) and the small coastal sharks (SCS) stock assessments, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other relevant Federal laws. NMFS is requesting comments on a wide range of commercial and recreational management measures including, but not limited to, quotas, minimum sizes, and prohibited species.

**DATES:** Comments on this action must be received no later than 5 p.m., local time, March 17, 2003.

The public scoping meetings will be held in February and March. For specific dates and times, see

**SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** Written comments on this action should be mailed to Christopher Rogers, Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to (301) 713-1917. Comments will not be accepted if submitted via email or Internet. Copies of the issues and options paper can be obtained from the HMS website at: <http://www.nmfs.noaa.gov/sfa/hmspg.html>, or by contacting Karyl Brewster-Geisz at (301) 713-2347.

The public scoping meetings will be held in Silver Spring, MD; Montauk, NY; Ocean City MD; Manteo, NC; Cocoa Beach, FL; Madeira Beach, FL; and Port Aransas, TX. For specific locations, see

**FOR FURTHER INFORMATION CONTACT:**

Karyl Brewster-Geisz at (301) 713-2347.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks is implemented by regulations at 50 CFR part 635.

**Background**

On November 15, 2002, NMFS published a notice of intent to prepare an EIS (67 FR 69180). In this notice, NMFS also announced its intent to amend the HMS FMP. Based on the 2002 stock assessments, NMFS believes the implementation of new management measures via an amendment to the HMS FMP is necessary to rebuild or prevent overfishing of Atlantic sharks. NMFS anticipates completing this amendment and any related documents by January 1, 2004.

**Large Coastal Sharks**

The LCS complex is composed of several species including, but not limited to, sandbar, blacktip, spinner, bull, and tiger sharks. Since the 1993 Shark Fishery Management Plan, LCS have been considered overfished. The latest stock assessment of LCS in the U.S. Atlantic and Gulf of Mexico, available in October 2002 (67 FR 64098), provides an update on the status of LCS stocks and projects their future abundance under a variety of catch levels in waters off the U.S. Atlantic and Gulf of Mexico coasts. The 2002 assessment includes catch estimates, new biological data, and a number of fishery-independent catch rate series, as well as extended fishery-dependent catch rate series.

The results for the LCS complex indicate that overfishing could still be occurring and the resource may be overfished. However, for sandbar sharks, the stock assessment indicates that, while overfishing is occurring, the current biomass is near, or somewhat above, maximum sustainable yield (MSY). Additionally, the stock assessment indicates that no reduction in catch for blacktip sharks is needed to maintain the stock at current levels and that some increase may be sustainable in the long term. Under the term of a court-approved settlement agreement, this stock assessment was independently peer reviewed. The peer review process was completed on December 20, 2003. The peer reviews were generally positive.

Copies of the LCS stock assessment and peer review are available for review (see **ADDRESSES**).

**Management Options****Small Coastal Sharks**

The SCS complex comprises four species including Atlantic sharpnose, blacknose, bonnethead, and finetooth. The 1992 stock assessment classified SCS as being fully utilized. The 2002 stock assessment of SCS in the U.S. and Gulf of Mexico indicates that the current level of removals is sustainable for the SCS aggregate. Aggregate biomass levels for the SCS aggregate are estimated at or above those which could produce MSY, and are not considered to be overfished. However, recent fishing mortality of finetooth sharks exceeds the fishing mortality at MSY, indicating overfishing is occurring for this species.

Copies of the SCS stock assessment and the peer review of the LCS stock assessment are available for review (see **ADDRESSES**).

**Management Options**

NMFS requests comments on management options for this action.

Specifically, NMFS requests comments on commercial management options including quota levels, regional and seasonal quotas, trip limits, minimum sizes, the application of dead discards and state landings after a Federal closure to the quota, the counting quota of over- and underages, and fishery closure and opening notices. Additionally, NMFS request comments on recreational management options including retention limits, minimum sizes, authorized gear, and landing requirements. NMFS also seeks comment regarding deep water and prohibited shark species, display quotas, time/area closures and the organization of species groupings. Comments received on this action will assist NMFS in determining the options for rulemaking to conserve and manage shark resources and shark fisheries.

Within the comment period established in this action, NMFS will hold seven public scoping meetings to gather public comment on the implementation of new management measures for Atlantic sharks.

**Schedule of Public Scoping Meetings**

The dates, times, and locations of the meetings are scheduled as follows:

1. *Monday, February 10, 2003 - Silver Spring, MD, 1-6 p.m.*

Holiday Inn  
8777 Georgia Avenue  
Silver Spring, MD 20910  
Contact: Karyl Brewster-Geisz @ (301) 713-2347

2. *Wednesday, February 19, 2003 - Montauk, NY, 7-9 p.m.*

Montauk Fire House

12 Flamingo Avenue  
Montauk, NY 11954  
Contact: Heather Stirratt @ (301) 713–2347

3. Tuesday, February 25, 2003 - *Coco Beach, FL, 7–9 p.m.*

Cocoa Beach Public Library  
550 North Brevard Avenue  
Cocoa Beach, FL 32931  
Contact: Greg Fairclough @ (727) 570–5447

4. Thursday, February 27, 2003 - *Madeira Beach, FL, 7–9 p.m.*

City of Madeira Beach, City of Madeira Beach Auditorium  
300 Municipal Drive  
Madeira Beach, FL 33708  
Contact: Greg Fairclough @ (727) 570–5447

5. Wednesday, March 5, 2003 - *Ocean City, MD, 7–9 p.m.*

Ocean City Council Chambers  
301 Baltimore Avenue  
Ocean City, MD 21842  
Contact: Karyl Brewster-Geisz @ (301) 713–2347

6. Thursday, March 6, 2003 - *Manteo, NC, 7–9 p.m.*

North Carolina Aquarium  
Roanoke Island  
Airport Road  
Manteo, NC 27954  
Contact: Heather Stirratt @ (301) 713–2347

7. Tuesday, March 11, 2003 - *Port Aransas, TX, 7–9 p.m.*

University of Texas  
Marine Science Institute  
Visitor's Center (located on Cotter St. near beach)  
750 Channel View Drive

Port Aransas, TX 78373

Contact: Heather Stirratt @ (301) 713–2347

### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Heather Stirratt, (301) 713–2347.

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

Dated: January 22, 2003.

**Richard W. Surdi,**

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