

action, EPA is using the guidance as an initial screen to determine whether approvability issues arise.

#### B. Does the Rule Meet the Evaluation Criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and EIPs. The TSD has more information on our evaluation.

#### C. Public Comment and Final Action

Because EPA believes the submitted rule fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this rule into the federally enforceable SIP.

### III. Background Information

#### A. Why Was This Rule Submitted?

NO<sub>x</sub> helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO<sub>x</sub> emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency NO<sub>x</sub> rules.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990.	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

### IV. 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 (Pub. L. 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 in 40 CFR Part 52

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

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

Dated: July 9, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 16

RIN 1018-A187

#### Review of Information Concerning Silver Carp (*Hypophthalmichthys molitrix*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of inquiry.

SUMMARY: The U.S. Fish and Wildlife Service is reviewing available economic and biological information on silver carp (*Hypophthalmichthys molitrix*) for possible addition of that species to the list of injurious wildlife under the Lacey Act. The importation and introduction of silver carp into the natural ecosystems of the United States may pose a threat to agriculture, horticulture, forestry, the health and welfare of human beings, and the welfare and survival of wildlife and wildlife resources in the United States. Listing silver carp as injurious would prohibit their importation into, or transportation between, the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United

States, with limited exceptions. This document seeks comments from the public to aid in determining if a proposed rule is warranted.

**DATES:** Comments must be submitted on or before September 22, 2003.

**ADDRESSES:** Comments may be mailed or sent by fax to the Chief, Division of Environmental Quality, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 322, Arlington, VA 22203; fax (703) 358-1800. You may also send comments by electronic mail (e-mail) to: [SilverCarp@fws.gov](mailto:SilverCarp@fws.gov). See the Public Comments Solicited section below for file format and other information about electronic filing.

**FOR FURTHER INFORMATION CONTACT:** Kari Duncan, Division of Environmental Quality, Branch of Invasive Species at (703) 358-2464 or [kari\\_duncan@fws.gov](mailto:kari_duncan@fws.gov).

**SUPPLEMENTARY INFORMATION:** On October 16, 2002, the U.S. Fish and Wildlife Service received a petition requesting that bighead carp, black carp, and silver carp be considered for inclusion in the injurious wildlife regulations pursuant to the Lacey Act. The petitioners expressed concern that silver carp could invade the Great Lakes from the Mississippi River basin, where they are established, through a manmade ship and sanitary canal. The petitioners, 25 members of Congress representing the Great Lakes region, are concerned that silver carp, because they are voracious eaters, may impact food supplies available to native fisheries in the Great Lakes, which are already struggling against other invasive species. The petitioners also noted that the Great Lakes fisheries are valued at approximately \$4 billion, and resource managers have spent decades trying to restore and protect them.

Silver carp are native to several major Pacific drainages in eastern Asia from the Amur River of far eastern Russia, south through much of the eastern half of China to the Pearl River, possibly including northern Vietnam. Silver carp are filter feeders capable of eating large amounts of phytoplankton. They also feed on zooplankton, bacteria, and detritus (loose material produced directly from disintegration processes). They prefer standing or slow-flowing water of impoundments or river backwaters ranging in temperature from 43 to 82 °F. They can grow to maximum lengths of about 40 inches and weigh up to 110 pounds. They reach sexual maturity at about 18 inches and can live up to 20 years.

Silver carp were imported into the United States in 1973 and stocked for phytoplankton control in eutrophic

(nutrient rich) water bodies and as a food fish (Fuller, et al, 1999). By the mid-1970s, silver carp were being raised at six Federal, State, and private facilities, and had been stocked in several municipal sewage lagoons by the late 1970s. Silver carp have been recorded in 12 States.

The Lacey Act (18 U.S.C. 42) and its implementing regulations in 50 CFR part 16 restrict the importation into or the transportation between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States of any species of wildlife, or eggs thereof, determined to be injurious or potentially injurious to certain interests, including those of agriculture, horticulture, forestry, the health and welfare of human beings, and the welfare and survival of wildlife and wildlife resources in the United States. However, injurious wildlife may be imported by permit for zoological, educational, medical, or scientific purposes in accordance with permit regulations at 50 CFR 16.22, or by Federal agencies without a permit solely for their own use. If the process initiated by this notice results in the addition of silver carp to the list of injurious wildlife contained in 50 CFR part 16, their importation into the United States would be prohibited except under the conditions, and for the purposes, described above.

This notice solicits economic, biological, or other information concerning silver carp. The information will be used to determine if the species is a threat, or potential threat, to those interests of the United States delineated above, and thus warrants addition to the list of injurious wildlife in 50 CFR 16.13.

#### Public Comments Solicited

Please send comments to Chief, Division of Environmental Quality, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 322, Arlington, VA 22030. Comments may be hand-delivered to the above address or faxed to (703) 358-1800. If you submit comments by e-mail, please submit comments as an ASCII file format and avoid the use of special characters and encryption. Please include "Attn: [RIN 1018-A187]" and your name and return address in your e-mail message. Please note that this email address will be closed at the termination of this public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

**Authority:** This notice is issued under the authority of the Lacey Act (18 U.S.C. 42).

Dated: June 27, 2003.

**Craig Manson,**

*Assistant Secretary for Fish, Wildlife and Parks.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 030314059-3173-02; I.D. 062003A]

RIN 0648-AQ48

#### Fisheries of the Exclusive Economic Zone (EEZ) Off Alaska; Salmon Fisheries off the Coast of Alaska

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to correct the definition of the area in which salmon fishing regulations implementing the Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska (Salmon FMP) apply, to remove the words "high seas" wherever they appear in the salmon fishing regulations, and to remove an obsolete reference to the North Pacific Fisheries Act of 1954 from the salmon fishing regulations. This action is necessary to make the regulations consistent with the area definition approved by the Secretary of Commerce (Secretary) in Amendment 3 to the Salmon FMP. The intended effect of this action is