

introductory text, (a)(1), and (c) to read as follows:

**§ 102.72 Filing petition with general counsel: investigation upon motion of general counsel; transfer of petition and proceeding from region to general counsel or to another region; consolidation of proceedings in same region; severance; procedure before general counsel in cases over which the general counsel has assumed jurisdiction.**

(a) Whenever it appears necessary in order to effectuate the purposes of the Act, or to avoid unnecessary costs or delay, the General Counsel may permit a petition to be filed with him/her in Washington, DC, or may, at any time after a petition has been filed with a Regional Director pursuant to § 102.60, order that such petition and any proceeding that may have been instituted with respect thereto:

(1) Be transferred to and continued before him/her, for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a Regional Office or with him/her; or

\* \* \* \* \*

(c) The Regional Director may exercise the powers in paragraphs (a)(2) and (4) of this section with respect to proceedings pending in his/her Region.

■ 10. Amend § 102.80 by revising paragraph (b) to read as follows:

**§ 102.80 Dismissal of petition; refusal to process petition under expedited procedure.**

\* \* \* \* \*

(b) If it shall appear to the regional director that an expedited election is not warranted but that proceedings under subpart C of this part are warranted, he/she shall so notify the parties in writing with a simple statement of the grounds for his/her decision.

\* \* \* \* \*

■ 11. Amend § 102.81 by revising the first sentence of paragraph (a) and the first sentence of paragraph (c) to read as follows:

**§ 102.81 Review by the general counsel of refusal to proceed on charge; resumption of proceedings upon charge held during pendency of petition; review by general counsel of refusal to proceed on related charge.**

(a) Where an election has been directed by the Regional Director or the Board in accordance with the provisions of §§ 102.77 and 102.78, the Regional Director shall decline to issue a complaint on the charge, and he/she shall so advise the parties in writing, accompanied by a simple statement of

the procedural or other grounds for his/her action.\* \* \*

\* \* \* \* \*

(c) If in connection with an 8(b)(7) proceeding, unfair labor practice charges under other sections of the Act have been filed and the Regional Director upon investigation has declined to issue a complaint upon such charges, he/she shall so advise the parties in writing, accompanied by a simple statement of the procedural or other grounds for his/her action.\* \* \*

■ 12. Amend § 102.83 by revising the second sentence to read as follows:

**§ 102.83 Petition for referendum under Section 9(e)(1) of the Act; who may file; where to file; withdrawal.**

\* \* \* The petition shall be in writing and signed, and either must be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his/her knowledge and belief.\* \* \*

■ 13. Amend § 102.118 by revising paragraphs (a) and (b) to read as follows:

**§ 102.118 Present and former Board employees prohibited from producing documents and testifying; production of witnesses' statements after direct testimony.**

(a) *Prohibition on producing files and documents.* Except as provided in § 102.117 respecting requests cognizable under the Freedom of Information Act, no present or former employee or specially designated agent of the Agency will produce or present any files, documents, reports, memoranda, or records of the Board or of the General Counsel, whether in response to a *subpoena duces tecum* or otherwise, without the written consent of the Board or the Chairman of the Board if the document is in Washington, DC, and in control of the Board; or of the General Counsel if the document is in a Regional Office of the Board or is in Washington, DC, and in the control of the General Counsel. A request that such consent be granted must be in writing and must identify the documents to be produced, the nature of the pending proceeding, and the purpose to be served by the production of the documents.

(b) *Prohibition on testifying.* No present or former employee or specially designated agent of the Agency will testify on behalf of any party to any cause pending in any court or before the Board, or any other board, commission, or other administrative agency of the

United States, or of any State, territory, or the District of Columbia, or any subdivisions thereof, with respect to any information, facts, or other matter coming to that person's knowledge in that person's official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Board or of the General Counsel, whether in answer to a subpoena or otherwise, without the written consent of the Board or the Chairman of the Board if the person is in Washington, DC, and subject to the supervision or control of the Board or was subject to such supervision or control when formerly employed at the Agency; or of the General Counsel if the person is in a Regional Office of the Agency or is in Washington, DC, and subject to the supervision or control of the General Counsel or was subject to such supervision or control when formerly employed at the Agency. A request that such consent be granted must be in writing and must identify the person whose testimony is desired, the nature of the pending proceeding, and the purpose to be served by the testimony of the official.

\* \* \* \* \*

National Labor Relations Board.

Gary Shinnars,

*Executive Secretary.*

[FR Doc. 2017-19781 Filed 9-18-17; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2016-0110; FRL-9967-88-Region 1]

### Air Plan Approval; Maine; Regional Haze 5-Year Progress Report

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maine on February 23, 2016. Maine's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require States to submit periodic reports describing progress toward reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the State's existing regional haze SIP. Maine's progress report notes that Maine has implemented the measures in the regional haze SIP due to be in place by the date of the progress

report and that visibility in federal Class I areas affected by emissions from Maine is improving and has already met the applicable RPGs for 2018. Maine also determined that the State's regional haze SIP is adequate to meet these reasonable progress goals for the first implementation period covering through 2018 and requires no substantive revision at this time.

**DATES:** This rule is effective on October 19, 2017.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2016-0110. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Anne McWilliams, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05-02), Boston, MA 02109-3912, telephone number (617) 918-1697, fax number (617) 918-0697, email [mcwilliams.anne@epa.gov](mailto:mcwilliams.anne@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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### I. Background

States are required to submit a progress report in the form of a SIP revision every five years that evaluates

progress towards the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). In addition, the provisions under 40 CFR 51.308(h) require States to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The first progress report SIP is due five years after submittal of the initial regional haze SIP.

On July 20, 2017 (82 FR 33471), EPA published a notice of proposed rulemaking (NPR) proposing approval of Maine's February 23, 2016 Regional Haze 5-Year Progress Report SIP revision on the basis that it satisfies the requirements of 40 CFR 51.308(g) and (h).

The specific details of Maine's February 23, 2016 SIP revision and the rationale for EPA's approval are discussed in the NPR and will not be restated here. EPA received one comment agreeing with EPA's assessment of Maine's February 23, 2016 Regional Haze 5-Year Progress Report.

### II. Final Action

EPA is approving Maine's February 23, 2016 Regional Haze 5-Year Progress Report SIP submittal as meeting the requirements of 40 CFR 51.308(g) and (h).

### III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of New Hampshire's regulation described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through <http://www.regulations.gov>.

### IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act.

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 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);
- 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 Clean Air Act; 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 20, 2017. Filing a petition for

reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

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

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

Dated: September 7, 2017.

**Deborah A. Szaro,**

*Acting Regional Administrator, EPA New England.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

#### Subpart U—Maine

■ 2. In § 52.1020, the table in paragraph (e) is amended by adding the entry “Regional Haze 5-Year Progress Report” at the end of the table to read as follows:

§ 52.1020	Identification of plan.
*	*
*	*
(e)	* * *

#### MAINE NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date <sup>3</sup>	Explanations
* * *	* * *	* * *	* * *	* * *
Regional Haze 5-Year Progress Report.	Statewide .....	2/23/2016	9/19/2017, [insert <b>Federal Register</b> citation].	Progress report for the first regional haze planning period ending in 2018.

<sup>3</sup>In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Parts 223 and 224

[Docket No. 160614520–7805–02]

RIN 0648–XE686

#### Endangered and Threatened Wildlife and Plants: Final Rule To List the Maui Dolphin as Endangered and the South Island Hector's Dolphin as Threatened Under the Endangered Species Act

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

**ACTION:** Final rule.

**SUMMARY:** We, NMFS, issue a final rule to list the Maui dolphin

(*Cephalorhynchus hectori maui*) as endangered and the South Island (SI) Hector's dolphin (*C. hectori hectori*) as threatened under the Endangered Species Act (ESA). We considered comments submitted on the proposed listing rule and have determined that the Maui dolphin and the SI Hector's dolphin warrant listing as endangered and threatened species, respectively. We will not designate critical habitat for either of these dolphin subspecies, because the geographical areas occupied by these dolphins are entirely outside U.S. jurisdiction, and we have not identified any unoccupied areas within U.S. jurisdiction that are currently essential to the conservation of either of these subspecies.

**DATES:** This final rule is effective October 19, 2017.

**ADDRESSES:** Endangered Species Division, NMFS Office of Protected Resources (F/PR3), 1315 East West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Lisa Manning, NMFS, Office of Protected Resources, [lisa.manning@noaa.gov](mailto:lisa.manning@noaa.gov), (301) 427–8466.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 15, 2013, we received a petition from WildEarth Guardians to list 81 marine species or populations as endangered or threatened species under the ESA. We determined that the petition had sufficient merit for further consideration, and status reviews were initiated for 27 of the 81 species or populations, including the Hector's dolphin (*Cephalorhynchus hectori*; 78 FR 63941, October 25, 2013; 78 FR 66675, November 6, 2013; 78 FR 69376, November 19, 2013; 79 FR 9880, February 21, 2014; and 79 FR 10104, February 24, 2014). On September 19, 2016, we published a proposed rule to list the Maui dolphin (*Cephalorhynchus hectori maui*) as endangered and the SI Hector's dolphin (*C. hectori hectori*) as threatened (81 FR 64110). We requested