

plan for the Dayton-Springfield, Ohio area. The inventories and budgets are being revised with inventories and budgets developed with the MOVES2010a model. The 2005 budgets for the Dayton-Springfield, Ohio area are 53.37 tons per day (tpd) VOC and 84.66 tpd NO<sub>x</sub>. The 2018 budgets for the Dayton-Springfield, Ohio area are 22.35 tpd VOC and 32.47 tpd NO<sub>x</sub>.

(18) Approval—On March 15, 2013, Ohio submitted a request to revise the approved MOBILE6.2 onroad mobile source emissions inventories and motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plan for the Ohio portion of the Steubenville-Weirton, West Virginia-Ohio area. The inventories and budgets are being revised with inventories and budgets developed with the MOVES2010a model. The 2009 budgets for the Ohio portion of the Steubenville-Weirton, West Virginia-Ohio area are 4.83 tons per day (tpd) VOC and 5.91 tpd NO<sub>x</sub>. The 2018 budgets for the Ohio portion of the Steubenville-Weirton, West Virginia-Ohio area are 2.14 tpd VOC and 2.43 tpd NO<sub>x</sub>.

(19) Approval—On April 18, 2013, Ohio submitted a request to revise the approved MOBILE6.2 onroad inventories and motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plan for the Toledo, Ohio area. The inventories and budgets are being revised with budgets developed with the MOVES2010a model. The 2009 budgets for the Toledo, Ohio area are 21.61 tons per day (tpd) VOC and 46.78 tpd NO<sub>x</sub>. The 2018 budgets for the Toledo, Ohio area are 9.36 tpd VOC and 17.64 tpd NO<sub>x</sub>.

(20) Approval—On April 26, 2013, Ohio submitted a request to revise the approved MOBILE6.2 onroad mobile source emissions inventories and motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plan for the Ohio portion of the Parkersburg-Marietta, West Virginia-Ohio area. The inventories and budgets are being revised with inventories and budgets developed with the MOVES2010a model. The 2009 budgets for the Ohio portion of the Parkersburg-Marietta, West Virginia-Ohio area are 4.15 tons per day (tpd) VOC and 7.33 tpd NO<sub>x</sub>. The 2018 budgets for the Ohio portion of the Parkersburg-Marietta, West Virginia-Ohio area are 1.93 tpd VOC and 3.25 tpd NO<sub>x</sub>.

\* \* \* \* \*

[FR Doc. 2013-24706 Filed 10-23-13; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2013-0548, FRL-9901-76-Region 10]

### Approval and Promulgation of Implementation Plans; Idaho: State Board Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is taking final action to approve a revision to the Idaho State Implementation Plan (SIP) submitted by the State of Idaho on September 16, 2013, for approval into the Idaho SIP for purposes of meeting the state board requirements of the Clean Air Act (CAA). The EPA is also approving the September 16, 2013, revision as meeting the corresponding state board infrastructure requirements of the CAA for the 1997 ozone National Ambient Air Quality Standards (NAAQS). On August 1, 2013, the EPA proposed to approve the July 16, 2013, draft of this revision submitted for parallel processing. Because the final SIP revision submitted by Idaho to the EPA on September 16, 2013 is consistent with the July 16, 2013, submittal, the Idaho SIP will, upon the effective date of this final approval, contain the required provisions regarding board composition and disclosure of potential conflicts of interest. The EPA is taking final action to approve this revision because it satisfies the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 25, 2013.

**ADDRESSES:** The EPA has established a docket for this action under Docket Identification No. EPA-R10-OAR-2013-0548. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which 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 either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT-107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person 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 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Kristin Hall at (206) 553-6357, [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov), or by using the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:**

Throughout this document, wherever "we," "us," or "our" are used, it is intended to refer to the EPA.

### Table of Contents

- I. Background
- II. Final Action
- III. Statutory and Executive Order Reviews

#### I. Background

On July 16, 2013, the State of Idaho submitted a SIP revision for purposes of meeting the state board requirements of CAA section 128 and the corresponding state board infrastructure SIP requirements for the 1997 ozone NAAQS. Specifically, Idaho submitted Executive Order 2013-06, dated June 26, 2013, and Idaho Code §§ 59-701 through 705, Ethics in Government Act, and requested parallel processing on the submittal. Under the parallel processing procedure, a state submits a SIP revision to the EPA before final adoption by the state. The EPA reviews this proposed state action and prepares a notice of proposed rulemaking. The EPA publishes its notice of proposed rulemaking in the **Federal Register** and solicits public comment in approximately the same time frame during which the state is completing its rulemaking action.

After submitting the draft July 16, 2013, revision to the EPA, Idaho provided a public comment period on the draft, and a public hearing. Idaho's comment period began July 12, 2013 and ended August 13, 2013. The public hearing was held on August 13, 2013. No comments or testimony were received. In parallel, on August 1, 2013, the EPA proposed approval of the July 16, 2013, draft SIP revision (78 FR 46549). An explanation of the CAA requirements and implementing regulations that are met by this SIP revision, a detailed explanation of the revision, and the EPA's reasons for approving it were provided in the notice of proposed rulemaking on August 1, 2013, and will not be restated here (78 FR 46549). The public comment period for the EPA's proposed approval ended on September 3, 2013 and we received no comments. Subsequently, Idaho submitted the final SIP revision to the EPA on September 16, 2013. Because the September 16, 2013, final SIP revision is consistent with the July 16,

2013, draft SIP revision and we received no comments on our proposal, we are finalizing our approval in this action.

**II. Final Action**

The EPA is approving the September 16, 2013, SIP revision from the State of Idaho as meeting the state board requirements of the Clean Air Act.

**III. 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, the 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 action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 this action does not involve technical standards; and does not provide the 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 rule 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 the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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. The 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 2013. 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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: September 24, 2013.  
**Dennis J. McLerran**,  
*Regional Administrator, Region 10.*

40 CFR Part 52 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 N—Idaho**

- 2. Amend the table in § 52.670(e) entitled "EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures" by adding the following entries to the end to read as follows:

**§ 52.670 Identification of plan.**

\* \* \* \* \*  
 (e) \* \* \*

**EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* Idaho State Board SIP Revision; Executive Order 2013-06; dated June 26, 2013.	* Statewide .....	* 9/16/2013	* 10-24-13 [Insert page number where the document begins].	* To satisfy the requirements of CAA section 128(a)(1) and CAA section 110(a)(2)(E)(ii) for all criteria pollutants. Executive Order 2013-06 expires June 26, 2017, unless renewed by subsequent Executive Order.
Idaho State Board SIP Revision; Idaho Code §§ 59-701 through 705; Ethics in Government Act.	Statewide .....	9/16/2013	10-24-13 [Insert page number where the document begins].	To satisfy the requirements of CAA section 128(a)(2) and CAA section 110(a)(2)(E)(ii) for all criteria pollutants.

\* \* \* \* \*

[FR Doc. 2013-24703 Filed 10-23-13; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 217**

[130325286-3653-01]

RIN 0648-BC69

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Replacement of the Elliott Bay Seawall in Seattle, Washington**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS, upon application from the City of Seattle's Department of Transportation (SDOT), is issuing regulations to govern the unintentional taking of marine mammals incidental to construction associated with the replacement of the Elliott Bay Seawall in Seattle, Washington, for the period October 2013 to October 2018. These regulations allow for the issuance of Letters of Authorization (LOAs) for the incidental take of marine mammals during the described activities and specified timeframes, and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of any takings.

**DATES:** Effective October 21, 2013, through October 21, 2018.

**ADDRESSES:** A copy of SDOT's application and other supplemental documents, may be obtained by visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225.

**FOR FURTHER INFORMATION CONTACT:** Michelle Magliocca, Office of Protected Resources, NMFS, (301) 427-8401.

**SUPPLEMENTARY INFORMATION:**

**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined 'negligible impact' in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Except with respect to certain activities not pertinent here, the MMPA defines 'harassment' as: "any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild ["Level A harassment"]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering ["Level B harassment"]."

**Summary of Request**

On September 17, 2012, NMFS received a complete application from SDOT requesting authorization for the take of nine marine mammal species incidental to replacement of the Elliott Bay Seawall in Seattle, Washington, over the course of 5 years. The purpose of the project is to reduce the risks of coastal storm and seismic damage and to protect public safety, critical infrastructure, and associated economic activities in the area. Additionally, the project would improve the degraded ecosystem functions and processes of the Elliott Bay nearshore around the existing seawall. Noise produced during pile installation and removal activities

has the potential to take marine mammals. SDOT requested, and NMFS will authorize through associated Letters of Authorization (LOAs), the take of nine marine mammal species by Level B harassment only: Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), southern resident and transient killer whales (*Orcinus orca*), humpback whale (*Megaptera novaengliae*), and gray whale (*Eschrichtius jubatus*). Injury or mortality is unlikely during the project, and take by Level A harassment (including injury) or mortality is not authorized.

**Description of the Specified Activity**

The proposed rule contains a complete description of SDOT's specified activities that are covered by these final regulations, and for which the associated incidental take of marine mammals will be authorized in the related LOAs (78 FR 22096, April 12, 2013). In summary, SDOT proposes to replace the Elliott Bay Seawall from South Washington Street to Broad Street, along the Seattle waterfront abutting Elliott Bay in King County, Washington. The purpose of the project is to reduce the risks of coastal storm and seismic damages and to protect public safety, critical infrastructure, and associated economic activities along Seattle's central waterfront. Additionally, the project will improve nearshore ecosystem functions and processes in the vicinity of the existing seawall. The project will be constructed in two phases: Phase 1 will extend for about 3,600 linear feet (ft) (1 kilometer (km)) from South Washington Street to Virginia Street, and Phase 2 will extend for about 3,500 linear ft (1 km) from Virginia to Broad Streets.

The new seawall will be constructed landward of the existing seawall face and result in a net setback of the wall from its existing location. The majority of seawall construction will occur behind a temporary steel sheet pile containment wall that will be placed waterward of the existing seawall complex and extend the full length of the construction work area during each construction season. The narrative description of the project contained in the proposed rule has not changed and is not repeated in full here. Tables 1, 2, and 3 below list the methods, durations, and locations of pile driving activities.