

stringent than their Federal counterparts. * * *. The opinion concludes that “[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.”

Virginia’s Immunity law, Va. Code Sec. 10.1–1199, provides that “[t]o the extent consistent with requirements imposed by Federal law,” any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General’s January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since “no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.”

Therefore, EPA has determined that Virginia’s Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Proposed Action

EPA’s review of this material indicates that Virginia has addressed the components of a maintenance plan pursuant to EPA’s May 20, 2005 guidance. EPA is proposing to approve the Virginia SIP revision for White Top Mountain, Smyth County, Virginia, which was submitted on August 6, 2007. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. 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 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 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), nor will it 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), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. 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 CAA. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the (Attorney General’s) Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings(issued under the executive order.

This action proposing approval of Virginia’s SIP revision request consisting of a 10-year maintenance plan under § 110(a)(1) for the White Top Mountain 1-hour ozone nonattainment area located in Smyth County, Virginia 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 12, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E8–3358 Filed 2–25–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–0646; FRL–8526–9]

Approval and Promulgation of State Implementation Plans; Montana; Interstate Transport of Pollution, New Definitions of PM and PM_{2.5}

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP)

revisions submitted by the State of Montana on June 28, 2000 and April 16, 2007. The revisions update Administrative Rules of Montana (ARM) provisions for Particulate Matter, and address Interstate Transport Pollution requirements of section 110(a)(2)(D)(i) of the Clean Air Act. On June 28, 2000, the Governor of Montana submitted revisions to ARM rules 17.8.101—Definitions; 17.8.308—Particulate Matter, Airborne; and 17.8.320—Wood Waste Burners. The June 28, 2000 submittal included also a declaration certifying the adequacy of the State SIP in regard to the infrastructure-related PM_{2.5} elements of section 110 of the Clean Air Act (CAA). In the April 16, 2007 submission, the Governor requested EPA's review and approval of the "Interstate Transport Rule Declaration" adopted into the Montana SIP on February 12, 2007. In that same letter, the Governor rescinded the State's earlier request for approval of Montana's SIP in regard to the infrastructure-related PM_{2.5} elements of section 110 of the CAA. In light of this rescission, EPA is not taking action on this declaration. This action is being proposed under section 110 of the Clean Air Act.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a non-controversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives an adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before March 27, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2007-0646, by one of the following methods:

- <http://www.regulations.gov>. Follow the on line instructions for submitting comments.

- E-mail: videtich.callie@epa.gov and mastrangelo.domenico@epa.gov.

- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Callie Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129.

- Hand Delivery: Callie Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule, which is located in the Rules Section of this **Federal Register**, for detailed instruction on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Domenico Mastrangelo, Air and Radiation Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-6436, mastrangelo.domenico@epa.gov.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title, which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: January 29, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

[FR Doc. E8-3339 Filed 2-25-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, 264, 265, and 271

[EPA-HQ-RCRA-2001-0032; FRL-8534-1]

RIN 2050-AG20

Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comment.

SUMMARY: This notice announces the availability of additional information on

the electronic manifest (e-Manifest) project. Specifically, EPA's Office of Solid Waste and Emergency Response (OSWER) has made significant progress on the e-Manifest project since the publication of the April 18, 2006 public notice, which announced and requested comment on our intention to develop a centralized web-based information technology (IT) system that would be hosted on EPA's IT architecture. However, a few issues raised by commenters in response to the April 2006 public notice require further analysis on our part, as we make decisions concerning the e-Manifest system.

We received strong support in response to the April 2006 public notice to establish a national web-based system funded through user-fees. In addition, commenters generally supported our position that use of e-Manifests should be at the election of the users rather than mandatory. However, some commenters expressed concern that an optional system would create dual paper and electronic systems. Furthermore, industry and state comments in response to our position to allow confidential business information (CBI) claims for e-Manifests differed. Therefore, as explained in this notice, we are soliciting additional comment on EPA's position on these two issues. We remain committed to finalizing a federal regulation, once the necessary legislation is enacted, that will authorize the regulated community to use electronic manifests as the legal equivalent of paper manifests, and will consider the comments received on this notice, as well as other comments received from previous actions, before we make a final decision.

DATES: Comments must be received on or before April 11, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2001-0032 by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.

- E-mail: Comments may be sent by electronic mail to: rcra-docket@epa.gov, Attention Docket ID No. EPA-HQ-RCRA-2001-0032.

- Fax: Comments may be faxed to 202-566-0272, Attention Docket ID No. EPA-HQ-RCRA-2001-0032.

- Mail: Comments may be sent to Environmental Protection Agency, EPA Docket Center (EPA/DC), Resource Conservation and Recovery Act (RCRA) Docket, 5305T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-