7. Section 102.62 is amended by adding a new paragraph (d) to read as follows:

§ 102.62 Consent-election agreements.

* * * * *

(d) Where a petition for certification consenting to an election has been duly filed jointly by a labor organization and an employer pursuant to § 102.60(b) and 102.61(c), and it appears to the Regional Director that the information provided on the petition is accurate and sufficient and that the bargaining unit description is appropriate on its face and not contrary to any statutory provision, the petition will be docketed. Within 3 days of the docketing of the petition, the Regional Director will advise the parties of his/her approval of their request for an election. The parties' agreement as to the date, place, and hours of the election will be approved by the Regional Director, absent extraordinary circumstances. Also within 3 days of the docketing of the petition, the Regional Director will send to the employer official NLRB notices, informing employees that the joint petition for certification has been filed and specifying the date, place, and hours of the election. These notices must be posted by the employer in conspicuous places where notices to employees are customarily posted and must remain posted through the election. Failure to post these notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of § 102.69(a). In addition to these notices, the employer must also post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election, as required under § 103.20. Any motions to intervene may be filed with the Regional Director in accordance with § 102.65, except that any such motion must be filed within 14 days from the docketing of the petition. The filing of an unfair labor practice charge will not serve to block the election or cause the ballots cast in the election to be impounded, but will be handled in conjunction with any post-election proceedings in accordance with § 102.69. The election shall be conducted under the direction and supervision of the Regional Director. The method of conducting the election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to § 102.69 and 102.70 except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect as if issued by the Board, provided further that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

Dated: Washington, DC, February 11, 2008.

By direction of the Board.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. E8–2767 Filed 2–25–08; 8:45 am]

BILLING CODE 7545–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–1068; FRL–8531–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Section 110(a)(1) 8-Hour Ozone Maintenance Plan for the White Top Mountain, Smyth County, VA 1-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision pertains to a 10-year maintenance plan for the White Top Mountain 1-hour ozone nonattainment area located in Smyth County, Virginia. This action is being taken under the Clean Air Act (CAA).

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

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–1068 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2007–1068, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2007–1068. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. 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 either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by e-mail at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 6, 2007, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its (SIP) for

approval of the section 110(a)(1) 8-hour ozone maintenance plan for White Top Mountain, Smyth County, Virginia.

I. Background

Section 110(a)(1) of the Clean Air Act (CAA or Act) requires that areas that were either nonattainment or attainment/unclassifiable with an approved 175A maintenance plan for the 1-hour ozone National Ambient Air Quality Standard (NAAQS), and attainment for the 8-hour ozone NAAQS submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS. These plans were due to EPA on June 15, 2007, three years after the effective date of the initial 8-hour ozone designations.

On May 20, 2005, EPA issued the Maintenance Plan Guidance Document for Certain 8-Hour Ozone Areas Under section 110(a)(1) of the Clean Air Act. The purpose of the guidance is to assist the states in the development of a SIP which addresses the maintenance requirements found in section 110(a)(1) of the CAA. There are five components of the section 110(a)(1) maintenance plan which are: (1) An attainment inventory, which is based on actual typical summer day emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_X) for a ten-year period from a base year as chosen by the state; (2) a maintenance demonstration which shows how the area will remain in compliance with the 8-hour ozone standard for 10 years after the effective date of designations (June 15, 2004); (3) a commitment to continue to operate air quality monitors; (4) a contingency plan that will ensure that a violation of the 8-hour ozone NAAQS is promptly addressed; and (5) an explanation of how the State will track the progress of the maintenance plan.

II. Summary of SIP Revision

The Virginia Department of Environmental Quality (VADEQ) 8-hour ozone maintenance plan addresses the components of the section 110(a)(1) 8-hour ozone maintenance plan as outlined in EPA's May 20, 2005 guidance. Virginia has requested approval of a revision consisting of a 10-year maintenance plan under section 110(a)(1) for the White Top Mountain 1-hour ozone nonattainment area located in Smyth County, Virginia.

VADEQ addressed the section 110(a)(1) guidance components as follows:

Emissions Inventory: VADEQ provided an explanation describing that White Top Mountain has no anthropogenic emissions, and since the guidance document states that projecting emissions and demonstrating maintenance for 10 years is not required for areas where there are essentially no anthropogenic emissions, emissions projections are not necessary, and thereby, not included in this maintenance plan.

Maintenance Demonstration and Tracking Progress: The demonstration should show how the area will remain in compliance with the 8-hour ozone standard for 10 years following the base year following the effective date of designation (June 15, 2004). This is usually accomplished by a demonstration that the area will have emissions that are equal to or below the emissions inventories of VOC and NO_X for this 10-year period. Since White Top Mountain has no anthropogenic emissions, and since the guidance indicates that a maintenance demonstration is not necessary for areas with essentially no anthropogenic emissions, a maintenance demonstration has not been included in this maintenance plan.

Ambient Air Quality Monitoring: The state should continue to operate air quality monitors in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard. Virginia, however, has never operated monitors on White Top Mountain. All of the monitors at this site were part of studies either managed by the Tennessee Valley Authority or EPA's Office of Research and Development, but these monitoring studies have ceased since 1999. Virginia does not have any monitors in place to operate nor does the Commonwealth plan on establishing a monitoring site. This is so for reasons which include the following: (1) There are no anthropogenic emissions at this site, (2) the very remote location of this nonattainment area, and (3) establishing a monitoring site would be cost-prohibitive.

Contingency Measures: The guidance indicates that most areas must develop a contingency plan that will ensure any violation of the 8-hour ozone NAAQS is promptly corrected. The guidance also states that for areas that have essentially no anthropogenic emissions, having a maintenance plan with contingency measures would be an ''absurd'' outcome. Therefore, contingency measures are not necessary, and thereby, not included in this maintenance plan.

Verification of Continued Attainment: Since emissions projections depend on assumptions of point, area, and mobile sources emissions, the guidance indicates that the state should indicate how it will track the progress of the maintenance plan. However, since the guidance specifically notes that emissions inventories and contingency measures are not necessary for areas where there are essentially no anthropogenic emissions, verification of these requirements is also not necessary, and therefore, not included in the maintenance plan.

The VADEQ is requesting approval of their SIP revision which consists of a 10-year maintenance plan under section 110(a)(1) for the White Top Mountain 1-hour ozone nonattainment area located in Smyth County, Virginia.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less

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)