

#### IV. Summary

EPA is proposing to determine that the Albany-Schenectady-Troy, Jefferson County and Rochester ozone nonattainment areas have attained the eight-hour ozone standard based on three years of complete, quality-assured monitoring data at all ozone monitoring sites in the areas. Data through the 2007 ozone season demonstrate that the areas continue to attain the standard. As provided in 40 CFR 51.918, if EPA's determinations that these areas have attained the eight-hour ozone standard are made final, they would suspend the requirements under section 182(b)(1) for submission of the reasonable further progress plan and ozone attainment demonstration and the requirements of section 172(c)(9) concerning submission of contingency measures and any other planning SIP relating to attainment of the eight-hour NAAQS. This suspension of requirements would be effective as long as the areas continue to attain the eight-hour ozone standard. EPA will await additional, complete data before determining whether the Whiteface Mountain area in Essex County is attaining the standard.

EPA emphasizes that its proposed determinations are contingent upon the continued monitoring and continued attainment and maintenance of the eight-hour ozone NAAQS in these affected areas. If these determinations are finalized and EPA subsequently determines, after notice and comment rulemaking, that an area violated the standard, the basis for the suspension of the planning requirements would no longer exist, and the area would thereafter have to address the pertinent requirements.

#### 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 proposes to make a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements. Accordingly, the Administrator certifies that this 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 make a determination

based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements, 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 proposed 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), because it merely proposes to make a determination based on air quality data and would, if finalized, result in the suspension of certain Federal requirements, 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 proposes to determine that air quality in the affected area is meeting Federal standards.

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 because it would be inconsistent with applicable law for EPA, when determining the attainment status of an area, to use voluntary consensus standards in place of promulgated air quality standards and monitoring procedures that otherwise satisfy the provisions of the Clean Air Act.

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.*)

Under Executive Order 12898, EPA finds that this rule involves a proposed determination of attainment based on air quality data and will not have disproportionately high and adverse human health or environmental effects on any communities in the area, including minority and low-income communities.

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

Environmental protection, Air pollution control, Nitrogen oxides, Ozone, Volatile organic compounds, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: February 6, 2008.

**Alan J. Steinberg,**

*Regional Administrator, Region 2.*

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Parts 271 and 272

[EPA-R08-RCRA-2006-0501 FRL-8524-6]

#### North Dakota: Final Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference of Approved Hazardous Waste Program

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

**ACTION:** Proposed rule.

**SUMMARY:** North Dakota has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA proposes to grant final authorization to the hazardous waste program changes submitted by North Dakota. In addition, EPA is proposing to codify in the regulations entitled "Approved State Hazardous Waste Management Programs", North Dakota's authorized hazardous waste program. EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State statutes and regulations that are authorized and that EPA will enforce under the Solid Waste Disposal Act, as amended and commonly referred to as RCRA. In the "Rules and Regulations" section of this **Federal Register**, we are authorizing the State's program changes and codifying and incorporating by reference the authorized hazardous waste program as an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe these actions are not controversial and do not expect comments to oppose them. We have explained the reasons for this authorization and incorporation-by-reference in the preamble to the immediate final rule. Unless we get written comments opposing this authorization and incorporation by reference during the comment period, the immediate final rule will become

effective and the Agency will not take further action on this proposal. If we receive comments that oppose these actions, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. EPA will then address public comments in a later final rule based on this proposal. Any parties interested in commenting on these actions must do so at this time. EPA may not provide further opportunity for comment.

**DATES:** Comments must be received on or before March 17, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-RCRA-2006-0501, by one of the following methods:

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

- *E-mail:* [daly.carl@epa.gov](mailto:daly.carl@epa.gov).

- *Fax:* (303) 312-6341.

- *Mail:* Send written comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P-HW, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- *Hand Delivery or Courier:* Deliver your comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P-HW, 1595 Wynkoop Street, Denver, CO 80202-1129. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-RCRA-2006-

0501. EPA's policy is that all comments received will be included in the public docket without change, 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 federal web site, <http://www.regulations.gov>, 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 or any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at: EPA Region 8, from 9 a.m. to 4 p.m., 1595 Wynkoop Street, Denver, Colorado, contact: Carl Daly, phone number (303) 312-6416, or the North Dakota Department of Health (NDDH) from 9 a.m. to 4 p.m., 1200 Missouri Ave, Bismarck, ND 58504-5264, contact: Curt Erickson, phone number (701) 328-5166. The public is advised to call in advance to verify the business hours.

**FOR FURTHER INFORMATION CONTACT:** Carl Daly, Solid and Hazardous Waste Program, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, CO 80202, (303) 312-6416, [daly.carl@epa.gov](mailto:daly.carl@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: January 22, 2008.

**Carol Rushin,**

*Acting Regional Administrator, Region 8.*

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