

proposals. The Commission will not require reporting of time to fulfillment on a daily basis at this point. The Commission first would like to review the ability of the Postal Service to meet its service standards as proposed before suggesting any changes. A Commission review of this service could be initiated if future demonstration that customer needs or expectations are not being met. As noted by the Postal Service, if in the future the Commission does not believe SFS service performance reporting is providing meaningful data, the Commission has the authority to direct changes in measurement systems and standards.

Popkin contends that orders received during system downtime or catastrophic system failure, and pre-orders should not be excluded from service standard reporting. The Commission currently is willing to accept excluding planned downtimes so long as customers are notified of these occurrences as indicated by the Postal Service. However, the Commission believes that system failures (unscheduled events) should be included in the reporting of service performance. Infrequent events can be explained within the data reports. Frequent events might indicate a systemic problem that requires immediate attention. The Commission recommends that the Postal Service revisit the decision to exclude system failures.

The Postal Service states that pre-orders may be received well in advance of fulfillment. This creates a problem for determining when to start-the-clock on measurement. The Commission agrees that pre-orders create a start-the-clock issue and that it need not be addressed at this time.

The Public Representative and Popkin contend that the reporting categories should be clarified and better defined. The Commission reminds the Postal Service that it must provide a description of what is being measured with each annual report to the Commission. See 39 CFR 3055.2(e)(1). The Postal Service is directed to ensure that accurate descriptions of the reporting categories are provided at that time.

#### VIII. Ordering Paragraphs

*It is ordered:*

1. The Commission amends its rules of practice and procedure by modifying the periodic reporting of service performance achievements for special services found in 39 CFR 3055.65. The changes to 39 CFR 3055.65 appear following the signature of this order.

2. The Secretary shall arrange for publication of this order in the **Federal Register**.

#### List of Subjects in 39 CFR Part 3055

Administrative practice and procedure; Postal service; Reporting and recordkeeping requirements.

By the Commission.

**Shoshana M. Grove**,  
*Secretary*.

For the reasons discussed in the preamble, the Postal Regulatory Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

#### PART 3055—SERVICE PERFORMANCE AND CUSTOMER SATISFACTION REPORTING

■ 1. The authority citation for part 3055 continues to read as follows:

**Authority:** 39 U.S.C. 503, 3622(a), 3652(d) and (e), 3657(c).

■ 2. In § 3055.65, add paragraph (d) to read as follows:

##### § 3055.65 Special Services.

\* \* \* \* \*

(d) *Additional reporting for Stamp Fulfillment Service.* For Stamp Fulfillment Service, report:

(1) The on-time service performance (as a percentage rounded to one decimal place), disaggregated by customer order entry method; and

(2) The service variance (as a percentage rounded to one decimal place) for orders fulfilled within +1 day, +2 days, and +3 days of their applicable service standard, disaggregated by customer order entry method.

[FR Doc. 2011-29391 Filed 11-14-11; 8:45 am]

#### BILLING CODE P

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA-R04-OAR-2011-0029-201103; FRL-9490-5]

#### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Charlotte-Gastonia-Rock Hill, NC and SC; Determination of Attainment of the 1997 8-Hour Ozone Standard

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to determine that the Charlotte-Gastonia-

Rock Hill, North Carolina-South Carolina nonattainment area has attained the 1997 8-hour ozone national ambient air quality standards (NAAQS). The Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the “bi-state Charlotte Area”) is composed of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell (Davidson and Coddle Creek Townships) Counties in North Carolina; and a portion of York County in South Carolina. This determination is based upon complete, quality assured, quality controlled, and certified ambient air monitoring data for the years 2008–2010 showing that the bi-state Charlotte Area has monitored attainment of the 1997 8-hour ozone NAAQS. Under the provisions of EPA’s ozone implementation rule the requirements for the States of North Carolina and South Carolina to submit an attainment demonstration and associated reasonably available control measures (RACM) analyses, reasonable further progress (RFP) plans, contingency measures, and other planning state implementation plans (SIPs) related to attainment of the 1997 8-hour ozone NAAQS for the bi-state Charlotte Area, shall be suspended for as long as the Area continues to attain the 1997 8-hour ozone NAAQS. Additionally, EPA is responding to comments received on EPA’s April 12, 2011, proposed rulemaking.

**DATES:** *Effective Date:* This final rule is effective on December 15, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R04-OAR-2011-0029. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information 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 through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960.

**FOR FURTHER INFORMATION CONTACT:** Jane Spann or Zuri Farngalo, Regulatory Development Section, Air Planning

Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Ms. Spann may be reached by phone at (404) 562-9029 or via electronic mail at [spann.jane@epa.gov](mailto:spann.jane@epa.gov). Mr. Farnago may be reached by phone at (404) 562-9152 or via electronic mail at [farnago.zuri@epa.gov](mailto:farnago.zuri@epa.gov).

#### SUPPLEMENTARY INFORMATION:

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. What is EPA's response to comments?
- IV. What is EPA's final action?
- V. What are the statutory and Executive Order reviews?

#### I. What action is EPA taking?

EPA is determining that the bi-state Charlotte Area has attained the 1997 8-hour ozone NAAQS. This determination is based upon complete, quality-assured, quality-controlled and certified ambient air monitoring data that shows the bi-state Charlotte Area has attained the 1997 8-hour ozone NAAQS based on the 2008-2010 data. Preliminary data available for 2011 are consistent with continued attainment of the 1997 8-hour ozone standard.

Other specific requirements of the determination and the rationale for EPA's final action are explained in the notice of proposed rulemaking published on April 12, 2011, (76 FR 20293) and will not be restated here. The comment period closed on May 12, 2011. EPA received one set of adverse comments. In this action, EPA is responding to those adverse comments.

#### II. What is the effect of this action?

In accordance with 40 CFR 51.918, this final determination suspends the requirements for North Carolina and South Carolina to submit attainment demonstrations, associated RACM, RFP, contingency measures, and other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS in the bi-state Charlotte area, as long as the Area continues to meet the 1997 8-hour ozone NAAQS. Finalizing this action does not constitute a redesignation of the bi-state Charlotte Area to attainment for the 1997 8-hour ozone NAAQS under section 107(d)(3) of the Clean Air Act (CAA or Act), nor is it a determination that the States have met all requirements for redesignation of the Area.

#### III. What is EPA's response to comments?

EPA received one set of comments from Robert Ukeiley on the April 12, 2011, proposed determination of

attainment for the bi-state Charlotte Area for the 1997 8-hour ozone NAAQS. A summary of the comments and EPA's responses are provided below.

*Comment 1:* The Commenter cites CAA section 110(l) and asserts that EPA's proposed determination is not in compliance with CAA section 110(l). Specifically, the Commenter states: "Clean Air Act § 110(l) provides that the Administrator shall not approve a revision of a plan if the revision would interfere with an applicable requirement concerning attainment and reasonable further progress \* \* \* or any other applicable requirement of this chapter." 42 U.S.C. 7410(l). The Commenter argues that EPA may not make the determination without providing an analysis under section 110(l).

*Response 1:* EPA disagrees with the Commenter that a section 110(l) analysis is required. This action is not approving a SIP revision, and thus CAA section 110(l) is not applicable. CAA section 110(l) applies explicitly and only to a "revision to an implementation plan." EPA's rulemaking here is restricted to EPA's determination, based on ambient air quality, that the Area is attaining the 1997 8-hour ozone standard. It is not a SIP revision, and thus section 110(l) is by its own terms not applicable to this rulemaking. It is not this determination of attainment, but rather EPA's ozone implementation rule, 40 CFR 51.918, that specifies the consequence of the determination as suspension of the area's obligations to submit an attainment demonstration, a RFP plan, contingency measures and other planning requirements related to attainment as SIP revisions for as long as the area continues to attain. In any case, the requirements that are suspended by the regulation are related solely to attainment for the 1997 8-hour ozone standard. EPA is determining, and the Commenter does not contest, that the area is attaining that standard and the suspension of attainment planning SIP submissions lasts only as long as the area is meeting that standard. No other requirements are suspended. The Commenter is incorrect in arguing that the determination of attainment would delay implementation of measures needed for attainment of the 1997 8-hour ozone standard, and that it would relax SIP control measures. This action has no effect on control measures, or air quality, in the area. For example, contrary to Commenter's contention, reasonably available control technology (RACT) requirements for the 1997 8-hour ozone standard (or for any other standard), are not suspended or delayed by this

determination, nor by 40 CFR 51.918. In sum, no evaluation under section 110(l) is required by law, and even if such an evaluation were required, EPA would conclude that this determination of attainment would not interfere with attainment, reasonable further progress towards attainment, or any other applicable requirement of the CAA.

*Comment 2:* The Commenter claims that the attainment determination "effectively relax[es] the SIP by staying its implementation," and goes on to say that "the Federal Register notice as well as the docket are devoid of any analysis of how delaying implementation of the attainment demonstration, RACM, [RFP], contingency measures and other planning requirements related to attainment of the 85 [parts per billion (ppb)] ozone NAAQS will interfere with attaining, making reasonable further progress on attaining and maintaining the 75 ppb ozone NAAQS as well as the 1-hour 100 ppb nitrogen oxides [NO<sub>2</sub>] NAAQS." Further, the Commenter states that "[t]he notice and docket are also devoid of any analysis of how delaying implementation of the various 85 ppb ozone nonattainment SIP provisions will interfere with attaining, making reasonable further progress, and maintaining the other NAAQS through co-benefits. For example, transportation control measures should have the co-benefit of reduced carbon monoxide [CO] and sulfur dioxide [SO<sub>2</sub>] emissions from mobile sources."

*Response 2:* The sole question addressed by EPA's rulemaking is whether the monitored ambient air quality in the Area shows that the Area has attained the 1997 8-hour ozone standard.<sup>1</sup> The Commenter does not contest EPA's finding that the bi-State Charlotte Area meets this NAAQS. Upon EPA's final determination that the Area has attained the standard, 40 CFR 51.918 provides that the CAA requirement to submit planning SIPs associated with attainment of that standard are suspended for as long as the Area continues to have ambient air quality data that meets that NAAQS. This regulation, which was upheld by the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir.) in *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009), is based on the principle that when an area is already attaining a standard, and continues in attainment, there is no basis for requiring planning SIPs to attain that

<sup>1</sup> EPA notes that the 1997 8-hour ozone NAAQS as published in a July 18, 1997, (62 FR 38856) is 0.08 parts per million (ppm), which is effectively 0.084 ppm or 84 ppb (due to the rounding convention) and not 85 ppb as the Commenter stated.

standard. In other words, if an area is meeting the NAAQS, it does not need a plan to meet the NAAQS. No additional measures are required for the area to attain the standard, since the area is already in attainment. In any event, EPA's determination of attainment is based solely on quality-assured ambient air quality monitoring. It is 40 CFR 51.918 that directs the suspension of planning requirements for the 1997 8-hour ozone standard. This suspension lasts only for so long as the area continues in attainment. Contrary to the Commenter's contention, under these circumstances there are no adverse impacts from the suspension. Moreover, this action concerns only the 1997 8-hour ozone standard, and is not relevant to the revised 8-hour ozone NAAQS of 0.075 ppm (75 ppb) that EPA promulgated on March 12, 2008. Further, EPA's determination of attainment for the bi-state Charlotte Area does not revise or remove any existing emissions limit for any NAAQS, or any other existing substantive SIP provisions relevant to the 1997 8-hour ozone NAAQS or the new NO<sub>2</sub> and SO<sub>2</sub> NAAQS. Nor does this determination revise or remove any existing emissions limit, or any existing substantive SIP provisions related to the CO NAAQS. As a result, this action does not relax any existing requirements or alter the status quo air quality.

The Commenter expresses concerns that this action "will interfere with attaining, making reasonable further progress, and maintaining the other NAAQS through co-benefits." To support this claim, the Commenter mentions that transportation control measures should have the co-benefit of reduced CO and SO<sub>2</sub> emissions from mobile sources. EPA does not understand the concern the Commenter is expressing with regard to transportation control measures. There are no mandatory or statutory requirements for this Area to implement transportation control measures even without EPA's action to suspend the requirements to submit attainment demonstrations, associated RACM, RFP, contingency measures, and other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS.

*Comment 3:* The Commenter asserts that "EPA's analysis must conclude that this proposed action would [violate] § 110(l) if finalized." To support this statement, the Commenter gives the example "42 U.S.C. § 7502(a)(2)(A) & (B) provides that the attainment date for nonattainment areas 'shall be the date by which attainment can be achieved as expeditiously as practicable[.]'" The Commenter goes on to contend that

"delaying implementing the nonattainment SIP [measures] for the 85 ppb NAAQS will delay the date by which the area can achieve the 75 ppb NAAQS, or a more protective NAAQS that EPA may promulgate."

*Response 3:* EPA disagrees with the Commenter's assertion that a final determination of attainment for the bi-state Charlotte Area for the 1997 8-hour ozone NAAQS would violate section 110(l). First, as noted above, this action is not approving a SIP revision and thus section 110(l) is not applicable. Second, EPA's implementing regulation, 40 CFR 51.918, provides that as a result of the determination that the Area is attaining, the nonattainment planning measures—which are designed to bring the Area into attainment—are no longer necessary so long as the Area continues to have attaining data for the 1997 8-hour ozone NAAQS. See 40 CFR 51.918. These logical consequences are articulated by regulation, and EPA's determination of attainment does not make any substantive revision that could result in any change in emissions. This action does not relax any existing requirements, delay implementation of measures, or alter the status quo air quality.

*Comment 4:* The Commenter expresses concerns regarding the sources' compliance with RACT and control techniques guidelines (CTG), and cites to 42 U.S.C. 7502(c)(1) explaining "that nonattainment SIPs shall provide for RACM as expeditiously as practicable." Specifically, the Commenter states "[d]elay in implementing the nonattainment SIP for the 85 ppb NAAQS will interfere with the expeditious implementation of RACM for the 75 ppb NAAQS." The Commenter goes on to explain that "if a source has already installed pollution controls to comply with RACT for the 85 ppb NAAQS, then the source can expeditiously comply with RACT for the 75 ppb NAAQS. However, delaying compliance with RACT for the 85 ppb NAAQS will interfere with the expeditious compliance with RACT for the 75 ppb NAAQS. This is especially true for sources that comply with RACT set forth in the Control Techniques Guidelines (CTG)."

*Response 4:* EPA believes that the Commenter's concerns regarding compliance of RACT and meeting the requirements for CTG are misplaced because this action does not relieve North Carolina or South Carolina of meeting these requirements for the 1997 8-hour ozone NAAQS. Both North Carolina and South Carolina have provided EPA with SIP revisions to

comply with the RACT and CTG requirements for the 1997 8-hour ozone NAAQS for the bi-state Charlotte Area. (EPA is taking action on these SIP revisions in rulemakings separate from today's action. In any event, a determination of attainment does not result in the suspension of any obligation to submit 8-hour ozone RACT requirements). The Commenter's concern regarding "expeditious compliance with RACT for the 75 ppb NAAQS," is misplaced. No designations have been made for the revised NAAQS, and thus no RACT requirements for that NAAQS are in place. Should the bi-state Charlotte Area (or any part thereof) be designated nonattainment for the 75 ppb ozone NAAQS or another revised NAAQS, the States will be subject to the applicable CAA requirements for that area based on the area's classification after EPA's nonattainment designation process is complete.

*Comment 5:* The Commenter states that:

"some nitrogen oxides (NO<sub>x</sub>) emissions which should be controlled by the 85 ppb nonattainment SIP provisions will become fine particulate matter. Allowing these NO<sub>x</sub> emission[s] will interfere with the national goal of remedying existing impairment of visibility in mandatory Class I [F]ederal areas which impairment results from manmade air pollution as set forth in 42 U.S.C. § 7491(a)(1) as well as making reasonable progress towards that goal as required by 42 U.S.C. § 7491(a)(4) and its implementing regulations."

The Commenter goes on to state that "[d]elay in requiring implementation of the 85 ppb nonattainment SIP provisions will also interfere with the requirement to procure, install and operate, as expeditiously as practicable best available retrofit technology as required by 42 U.S.C. § 7491(b)(2)(A) and its implementing regulations."

*Response 5:* The Commenter provides no basis for their assertion that determination of attainment for the 1997 8-hour ozone NAAQS for the bi-state Charlotte Area will delay implementation of controls and thus allow NO<sub>x</sub> emissions to interfere with "the national goal of remedying existing impairment of visibility in mandatory Class I [F]ederal areas" or "the requirement to procure, install and operate, as expeditiously as practicable best available retrofit technology." As previously described, EPA's determination of the bi-state Charlotte Area's attainment of the 1997 8-hour ozone NAAQS does not make substantive revisions that could result in or delay required controls. Today's action, pursuant to 40 CFR 51.918 merely suspends the requirements for

the bi-state Charlotte Area to submit attainment demonstrations, associated RACM, RFP, contingency measures, and other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS (when the Area has already attained that standard). It does not, in and of itself, relax any existing requirements or alter the status quo air quality.

This action also does not relieve North Carolina and South Carolina of the requirements related to improving visibility impairment, including meeting reasonable progress goals and the consideration of best available control technology for Class I areas in North Carolina and South Carolina. Both North Carolina and South Carolina have submitted SIP revisions to address requirements related to improving visibility impairment including meeting reasonable progress goals and the consideration of best available control technology for their respective Class I areas. EPA will address these SIP submissions in a rulemaking separate from today's action.

#### IV. What is EPA's final action?

EPA is taking final action to determine that the bi-state Charlotte Area has attained the 1997 8-hour ozone NAAQS. This determination is based upon complete, quality-assured, quality-controlled, and certified ambient air monitoring data showing that the bi-state Charlotte Area has monitored attainment of the 1997 8-hour ozone NAAQS during the period 2008–2010. This final action, in accordance with 40 CFR 51.918, will suspend the requirements for the States of North Carolina and South Carolina to submit attainment demonstrations, associated RACM, RFP plans, contingency measures, and other planning SIPs for the bi-State Charlotte Area related to attainment of the 1997 8-hour ozone NAAQS, for as long as the Area continues to meet the 1997 8-hour ozone NAAQS.

#### V. What are statutory and Executive Order reviews?

This action makes a determination of attainment based on air quality, and will result in the suspension of certain federal requirements, and it will 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 application of those requirements would be inconsistent with the CAA; 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, this 1997 8-hour ozone NAAQS determination of attainment for the bi-state Charlotte Area does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the determination does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the South Carolina portion of the bi-state Charlotte Area. EPA notes that the proposal for this rule incorrectly stated that the South Carolina SIP is not approved to apply in Indian country located in the State. While this statement is generally true with regard to Indian country throughout the United States, for purposes of the Catawba Indian Nation Reservation in Rock Hill, the SIP does apply within the Reservation. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, "all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities." However, because today's action will not result in any direct effects on the Catawba, EPA's initial assessment that Executive Order 13175 does not apply remains valid.

Furthermore, EPA notes today's action also 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. 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 January 17, 2012. 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, Intergovernmental relations, Incorporation by reference, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 2, 2011.

**Gwendolyn Keyes Fleming**,  
Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart II—North Carolina

- 2. Section 52.1779 is added to read as follows:

##### § 52.1779 Control strategy: Ozone.

(a) *Determination of attaining data.* EPA has determined, as of November 15, 2011, the bi-state Charlotte-Gastonia-Rockhill, North Carolina-South Carolina

nonattainment area has attaining data for the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standards for as long as this area continues to meet the 1997 8-hour ozone NAAQS.

(b) [Reserved]

### Subpart PP—South Carolina

■ 3. Section 52.2125 is added to read as follows:

#### § 52.2125 Control strategy: Ozone.

(a) *Determination of attaining data.* EPA has determined, as of November 15, 2011, the bi-state Charlotte-Gastonia-Rockhill, North Carolina-South Carolina nonattainment area has attaining data for the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standards for as long as this area continues to meet the 1997 8-hour ozone NAAQS.

(b) [Reserved]

[FR Doc. 2011-29184 Filed 11-14-11; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 73 and 74

[MB Docket No. 03-185; Report No. 2935]

#### Petition for Reconsideration of Action of Rulemaking Proceeding

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for reconsideration.

**SUMMARY:** In this document, Petitions for Reconsideration (Petitions) have been filed in the Commission's Rulemaking proceeding concerning the Commission's *Second Report and Order*.

**DATES:** Oppositions to the Petitions must be filed by November 30, 2011. Replies to an opposition must be filed December 12, 2011.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Shaun Maher, Media Bureau, (202) 418-2324.

**SUPPLEMENTARY INFORMATION:** In this document, Petitions for Reconsideration (Petitions) have been filed in the Commission's Rulemaking proceeding concerning the Commission's *Second Report and Order*, FCC 11-110, in MB Docket No. 03-185 and published pursuant to 47 CFR 1.429(e). See 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)).

This is a summary of Commission's document, Report No. 2935, released October 25, 2011. The full text of this document is available for viewing and copying in Room CY-B402, 445 12th Street SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1-(800) 378-3160). The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *Notice* does not have an impact on any rules of particular applicability.

*Subject:* In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations (MB Docket No. 03-185).

*Number of Petitions Filed:* 7.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of Managing Director.*

[FR Doc. 2011-29437 Filed 11-14-11; 8:45 a.m.]

BILLING CODE 6712-01-P

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## DEPARTMENT OF HOMELAND SECURITY

### 48 CFR Parts 3009 and 3052

[Docket No. DHS-2010-0017]

RIN 1601-AA55

#### Prohibition on Federal Protective Service Guard Services Contracts With Business Concerns Owned, Controlled, or Operated by an Individual Convicted of a Felony [HSAR Case 2009-001]; Correction

**AGENCY:** Office of the Chief Procurement Officer, DHS.

**ACTION:** Correcting amendment.

**SUMMARY:** This document corrects internal citations within the Homeland Security Acquisition Regulation to reflect previous redesignation of

sections related to contracting with corporate expatriates and the recodification of certain public contracting laws in title 41, United States Code.

**DATES:** *Effective Date:* November 15, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ann Van Houten, Procurement Analyst, at (202) 447-5285, for clarification of content.

#### SUPPLEMENTARY INFORMATION:

This document corrects internal citations within the Department of Homeland Security (DHS) Homeland Security Acquisition Regulation (HSAR) at parts 3009 and 3052 to reflect a prior redesignation of related sections and the recodification of certain public contracting laws in title 41, United States Code, by Public Law 111-350, 124 Stat. 367 (Jan. 4, 2011).

On November 16, 2009, DHS published a final rule entitled *Prohibition on Federal Protective Service Guard Services Contracts With Business Concerns Owned, Controlled, or Operated by an Individual Convicted of a Felony* [HSAR Case 2009-001], 74 FR 58851 (Nov. 16, 2009), implementing prohibitions related to contracting with guard services owned, controlled or operated by an individual who has been convicted of a serious felony. This final rule resulted in the redesignation of multiple sections within the HSAR. On December 16, 2009, DHS corrected the final rule by redesignating section 3009.104-70 as section 3009.108-70, and subsections 3009.104-71 through 3009.104-75 as subsections 3009.108-7001 through 3009.108-7005. 74 FR 66584 (Dec. 16, 2009). This amendment corrects internal references within subsections 3009.108-7001, 3009.108-7004 and 3052.209-70 to reflect the previous redesignations.

The amendment also corrects the authority citation for Parts 3009 and 3052 resulting from the recodification of certain public contracting laws in title 41 by Public Law 111-350, 124 Stat. 367 (Jan. 4, 2011).

#### List of Subjects in 48 CFR Parts 3009 and 3052

Government procurement.

#### Correcting Amendments

Accordingly, 48 CFR Parts 3009 and 3052 are corrected by making the following amendments:

#### PART 3009—CONTRACTOR QUALIFICATIONS

■ 1. The authority citation for part 3009 is revised to read as follows: