described below, any such determination would not be equivalent to the redesignation of the Area to attainment for the annual $PM_{2.5}$ NAAQS.

If this proposed rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the Area has violated the annual $PM_{2.5}$ NAAQS, the basis for the suspension of the specific requirements would no longer exist for the Birmingham Area, and the Area would thereafter have to address the applicable requirements. *See* 40 CFR 51.1004(c).

Finalizing this proposed action would not constitute a redesignation of the Area to attainment of the annual $PM_{2.5}$ NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, finalizing this proposed action does not involve approving a maintenance plan for the Area as required under section 175A of the CAA, nor would it find that the Area has met all other requirements for redesignation. Even if EPA finalizes the proposed action, the designation status of the Birmingham Area would remain nonattainment for the 1997 annual $PM_{2.5}$ NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment and takes action to redesignate the Area.

This action is only a proposed determination of attaining data that the Birmingham Area has attained the 1997 annual $PM_{2.5}$ NAAQS. Today's action does not address the 24-hour $PM_{2.5}$ NAAQS.

If the Birmingham Area continues to monitor attainment of the annual $PM_{2.5}$ NAAQS, the requirements for the Birmingham Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the annual $PM_{2.5}$ NAAQS will remain suspended.

V. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality, and would, if finalized, result in the suspension of certain federal requirements, and it would not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 proposed 1997 annual average $PM_{2.5}$ NAAQS data determination for the Birmingham Area 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 EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: April 4, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2011–8702 Filed 4–11–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0029–201103; FRL–9293–2]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Charlotte-Gastonia-Rock Hill, North Carolina and South Carolina: Determination of Attainment for the 1997 8-Hour Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing 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) based on quality assured, quality controlled monitoring data from 2008–2010. 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 comprised 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. If this proposed determination is made final, the requirement 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 meet the 1997 8-hour ozone NAAQS.

DATES: Written comments must be received on or before May 12, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0029 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* "EPA–R04–OAR–2011–0029," 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.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, 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. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2011–0029. 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 through *http://www.regulations.gov* or by e-mail information that you consider to be CBI or otherwise protected. 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. 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 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 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. EPA requests that if at all possible, 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: 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 e-mail at *spann.jane@epa.gov.* Mr. Farngalo may be reached by phone at (404) 562–9152 or via electronic mail at *farngalo.zuri@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?
II. What is the effect of this action?
III. What is the background for this action?
IV. What is EPA's analysis of the relevant air quality data?
V. Proposed Action
VI. Statutory and Executive Order Reviews

I. What action is EPA taking?

EPA is proposing to determine that the bi-state Charlotte Area has attained the 1997 8-hour ozone NAAQS. Today's proposal 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. EPA is in the process of establishing a new 8-hour ozone NAAQS, and expects to finalize the reconsidered NAAQS by July 2011. Today's action, however, relates only to the 1997 8-hour ozone NAAQS. Requirements for the bi-state Charlotte Area under the 2011 NAAQS will be addressed in the future.

II. What is the effect of this action?

If this determination is made final, under the provisions of EPA's ozone implementation rule (see 40 CFR 51.918), it would suspend the requirement to submit attainment demonstrations and associated RACM analyses, RFP plans, contingency measures,[1] and any other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS. The clean data determination would continue until such time, if any, that EPA subsequently determines that the bi-state Charlotte Area has violated the 1997 8-hour ozone NAAQS. The clean data determination is separate from any future designation determination or requirements for the bi-state Charlotte Area based on the revised or reconsidered ozone NAAQS, and would remain in effect regardless of whether EPA designates the bi-state Charlotte Area as a nonattainment area for purposes of a future revised or reconsidered 8-hour ozone NAAQS.[2] Furthermore, as described below, a final clean data determination is not equivalent to the redesignation of the bi-state Charlotte Area to attainment for the 1997 8-hour ozone NAAQS. If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the bi-state Charlotte Area has violated the 1997 8-hour ozone NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.918, would no longer exist, and the bi-state Charlotte Area would thereafter have to address pertinent requirements.

As mentioned above, finalizing this proposed action would not constitute a redesignation of the bi-state Charlotte Area to attainment of the 1997 8-hour ozone NAAQS under section 107(d)(3) of the CAA. Finalizing this proposed action does not involve approving maintenance plans for the bi-state Charlotte Area as required under section 175A of the CAA, or affirm that the Area has met all other requirements for redesignation. The designation status of the bi-state Charlotte Area would remain nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that it meets the CAA requirements for redesignation to attainment. The States of North Carolina and South Carolina are currently working on a redesignation request and maintenance plan to change the bi-state Charlotte Area's status from nonattainment to attainment for the 1997 8-hour ozone NAAQS. EPA will consider North Carolina and South Carolina's redesignation request and maintenance plan for the bi-state

[1] Contingency measures associated with a maintenance plan (such as if the States opt to redesignate this Area to attainment for the 1997 8-hour ozone NAAQS) would still be required.

[2] As noted above, at this time the proposed determination of attainment, if finalized, would suspend only those requirements related to attainment that are currently applicable to the bi-state Charlotte Area.

Charlotte Area in a rulemaking separate from today's proposed action.

This proposed action, if finalized, is limited to a determination that the bi-state Charlotte Area has attained the 1997 8-hour ozone NAAQS. As noted above, the 1997 8-hour ozone NAAQS became effective on July 18, 1997 (62 FR 38894), and are set forth at 40 CFR 50.10. On March 12, 2008, EPA promulgated revised 8-hour ozone NAAQS. Subsequently, on January 19, 2010, EPA published a proposed rule to reconsider the 2008 8-hour ozone NAAQS (75 FR 2938) and to propose a revised ozone NAAQS. Today's proposed determination for the bi-state Charlotte Area, and any final determination, will have no effect on, and is not related to, any future designation determination that EPA may make based on the revised or reconsidered ozone NAAQS for the Bi-state Charlotte Area.

If this proposed determination is made final and the bi-state Charlotte Area continues to demonstrate attainment with the 1997 8-hour ozone NAAQS, the obligation for the States of North Carolina and South Carolina to submit for the bi-state Charlotte Area an attainment demonstrations and associated RACM analyses, RFP plans, contingency measures, and any other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS will remain suspended regardless of whether EPA designates the bi-state Charlotte Area as a nonattainment area for purposes of the revised or reconsidered ozone NAAQS. Once the bi-state Charlotte Area is designated for the revised or reconsidered ozone NAAQS, it will have to meet all applicable requirements for that designation.

III. What is the background for this action?

On July 18, 1997 (62 FR 38894), EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million (ppm) for both the primary and secondary standards. These NAAQS are more stringent than the previous 1-hour ozone NAAQS. Under EPA regulations at 40 CFR part 50, the 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50. Specifically, section 2.3 of 40 CFR part 50, Appendix I, "*Comparisons with the Primary and Secondary Ozone Standards*" states:

> "The primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. The number of significant figures in the level of the standard dictates the rounding convention for comparing the computed 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration with the level of the standard. The third decimal place of the computed value is rounded, with values equal to or greater than 5 rounding up. Thus, a computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is greater than 0.08 ppm."

On April 30, 2004 (69 FR 23857), EPA published its air quality designations and classifications for the 1997 8-hour ozone NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003. These designations became effective on June 15, 2004. The bi-state Charlotte Area is comprised 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, South Carolina and was designated nonattainment for the 1997 8-hour ozone NAAQS. *See* 40 CFR part 81.

IV. What is EPA's analysis of the relevant air quality data?

EPA has reviewed the three most recent years of complete, certified, quality assured and quality controlled ambient air monitoring data for the 1997 8-hour ozone NAAQS, consistent with the requirements contained in 40 CFR part 50, as recorded in the EPA Air Quality System (AQS) database for the bi-state Charlotte Area. Based on that review, EPA has preliminarily concluded that the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS during the 2008–2010 monitoring period. Under EPA regulations at 40 CFR 50.10, the 1997 8-hour primary and secondary ozone ambient air quality NAAQS are met at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum 8-hour average concentration is less than or equal to 0.08 ppm, as determined in accordance with appendix I of 40 CFR part 50.

Table 1 shows the design values (the metrics calculated in accordance with 40 CFR part 50, appendix I, for determining compliance with the NAAQS) for the 1997 8-hour ozone NAAQS for the bi-state Charlotte Area monitors for the years 2008–2010.

TABLE 1—DESIGN VALUES FOR COUNTIES IN THE BI-STATE CHARLOTTE, NORTH AND SOUTH CAROLINA NONATTAINMENT AREA FOR THE 1997 8-HOUR OZONE NAAQS

Location	AQS site ID	2008 (ppm)	2009 (ppm)	2010 (ppm)	2008–2010 Design value (ppm)
Lincoln County (NC)	1487 Riverview Rd. (37–109–0004)	0.079	0.065	0.072	0.072
Mecklenburg County (NC)	1130 Eastway Dr. (37–119–0041)	0.085	0.069	0.082	0.078
Mecklenburg County (NC)	400 Westinghouse Blvd. (37–119–1005)	0.073	0.068	0.078	0.073
Mecklenburg County (NC)	29 N @ Mecklenburg Cab Co. (37–119–1009)	0.093	0.071	0.082	0.082
Rowan County (NC)	301 West St. & Gold Hill Ave. (37–159–0021)	0.084	0.071	0.077	0.077
Rowan County (NC)	925 N Enochville Ave. (37–159–0022)	0.082	0.073	0.078	0.077
Union County (NC)	701 Charles St. (37–179–0003)	0.08	0.067	0.071	0.072

Table 2 shows the data completeness percentages for the 1997 8-hours ozone NAAQS for the Atlanta Area monitors for the years 2008–2010.

TABLE 2—COMPLETENESS PERCENTAGES FOR COUNTIES IN THE BI-STATE CHARLOTTE, NORTH AND SOUTH CAROLINA NONATTAINMENT AREA OR THE 1997 8-HOUR OZONE NAAQS

Location	AQS site ID	2008 (%)	2009 (%)	2010 (%)	2008–2010 Completeness average (%)
Lincoln County (NC)	1487 Riverview Rd. (37–109–0004)	97	98	96	97
Mecklenburg County (NC)	1130 Eastway Dr (37–119–0041)	100	97	99	99
Mecklenburg County (NC)	400 Westinghouse Blvd. (37–119–1005)	100	97	99	99
Mecklenburg County (NC)	29 N @ Mecklenburg Cab Co. (37–119–1009)	98	98	98	98
Rowan County (NC)	301 West St & Gold Hill Ave. (37–159–0021)	93	91	95	93
Rowan County (NC)	925 N Enochville Ave. (37–159–0022)	99	97	93	96
Union County (NC)	701 Charles St. (37–179–0003)	98	96	98	97

EPA's review of these data indicate that the bi-state Charlotte Area has met and continues to meet the 1997 8-hour ozone NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Proposed Action

EPA is proposing to determine that the Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour nonattainment area has attained the 1997 8-hour ozone NAAQS based on 2008–2010 complete, quality-assured, quality-controlled and certified monitoring data. As provided in 40 CFR 51.918, if EPA finalizes this determination, it would suspend the requirements for the States of North and South Carolina to submit, for the bi-state Charlotte Area, an attainment demonstrations and associated RACM analyses, RFP plans, contingency measures, and any other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS as long as the Area continues to attain the 1997 8-hour ozone NAAQS.

VI. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality, and would, if finalized, result in the suspension of certain federal requirements, and it would not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 proposed 1997 8-hour ozone clean NAAQS data determination 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 SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 31, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2011–8705 Filed 4–11–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2006–0130–201111(b); FRL–9293–5]

Approval and Promulgation of Implementation Plans: Florida; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to convert a conditional approval of provisions in the Florida State Implementation Plan (SIP) to a full approval under the federal Clean Air Act (CAA). On June 17, 2009, the State of Florida, through the Florida Department of Environmental Protection, submitted a SIP revision in response to the conditional approval of its New Source Review (NSR) permitting program. The revision includes changes to certain parts of the Prevention of Significant Deterioration construction permit program in Florida, including the definition of "new emissions unit," "regulated air pollutant" and "significant emissions rate" as well as recordkeeping requirements. In addition, Florida provided a clarification that the significant emissions rate for mercury in the Florida regulations is intended to apply as a state-only provision. EPA has determined that this revision addresses the conditions identified in the