

Corrective Actions

(g) If any cracking is found during any inspection required by this AD, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, or with a method approved in accordance with the procedures specified in paragraph (i) of this AD.

Acceptable Method of Compliance

(h) Replacing the splice fitting before the effective date of this AD in accordance with Boeing Service Bulletin 737-53-1222, dated June 6, 2002; or Boeing ASB 737-53A1222, Revision 1, dated January 30, 2003, is acceptable for compliance with the requirements of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin 737-53A1222, Revision 2, dated October 20, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL-401, Nassif Building, Washington, DC; on the Internet at <http://dms.dot.gov>; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on November 25, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CO-001-0076a; FRL-8004-9]

Approval and Promulgation of Air Quality Implementation Plans; CO; PM₁₀ Designation of Areas for Air Quality Planning Purposes, Lamar; State Implementation Plan Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: When EPA approved the Colorado State Implementation Plan (SIP) revision that requested redesignation of the Lamar area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀) EPA provided response to comments and in one of the response to comments, misstated our response to the comment. In this action we are making a correction to the preamble by clarifying our response to the comment raised to correct our misstatement.

DATES: This correction is effective on January 5, 2006.

FOR FURTHER INFORMATION CONTACT: Libby Faulk, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466, phone (303) 312-6083, and e-mail at: faulk.libby@epa.gov.

SUPPLEMENTARY INFORMATION: (i) Throughout this document, wherever *we*, *us* or *our* is used it means the Environmental Protection Agency.

(ii) The initials *SIP* mean or refer to State Implementation Plan.

(iii) The word *State* means the State of Colorado, unless the context indicates otherwise.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that when an agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because this was a misstatement in a response to comment and does not affect the outcome of the action and therefore meets the good cause exception. Thus, notice and public comment procedures are unnecessary. We find that this

constitutes good cause under 5 U.S.C. 553(b)(B).

I. Correction

Correction for the **Federal Register** Document Published on October 25, 2005 (70 FR 61563).

On October 25, 2005 we published a final rule approving Lamar's PM₁₀ SIP submitted by the Governor of Colorado on July 31, 2002. When we published this rule, we responded to public comments that were received during the public comment period in the proposed rule that was published on August 5, 2006 (69 FR 47366). In one of our response to comments, we misstated our response by stating that "the CAA does not provide EPA with the authority to regulate air emissions from CAFOs" (70 FR 61565). This is incorrect. EPA does have the authority to regulate air emissions from any source as defined under the Clean Air Act (CAA). Therefore, we are correcting our misstatement in the preamble. The comment received was the following:

The commenter expressed concern regarding the proposed **Federal Register** notice stating that the PM₁₀ emissions are mainly wind blown. The commenter believes that this statement ignores the fact that there is a major combined animal feeding operation (CAFO) in Lamar that is a significant source of PM₁₀ emissions and that the PM₁₀ and precursor emissions from the source were not properly considered in determining attainment.

EPA's revised response is the following:

Based on EPA's review of the Lamar, Colorado PM₁₀ Maintenance Plan and Technical Support Documentation (TSD), the State of Colorado did include PM₁₀ emissions from the combined animal feeding operation (CAFO) for the Lamar emissions inventory. The CAFO emissions are included in the area source emissions under wind erosion from the feedlot. The State also included the PM₁₀ emissions from the above emission source in its modeling analysis and the area continues to show attainment in future years. As for precursor emissions, the State added a secondary particulate concentration as part of its modeling effort to show attainment. The particulate concentration was comprised of ammonium nitrates and sulfates particles and was based on filter samples collected in Lamar. Further detailed information regarding the State's submittal is located within the docket of the final rule (70 FR 61563, October 25, 2005).

II. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4, 209 Stat. 48 (1995)). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This 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 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). This 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 is not economically significant.

This technical correction action does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) 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 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.*).

The Congressional Review Act (CRA), 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement, 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of January 5, 2006. EPA will submit a report containing this rule 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**.

Dated: November 28, 2005.

Robert E. Roberts,

Regional Administrator, Region VIII.

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