



Montana Department of  
**ENVIRONMENTAL QUALITY**

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • [www.deq.mt.gov](http://www.deq.mt.gov)



Brian Schweitzer, Governor

FYI: monica &  
Kathy Dolan  
rec'd copies

December 22, 2009

Callie Videtich  
Air Program Director  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop St  
Denver, CO 80202-1129

Dear Callie:

The Montana Department of Environmental Quality is submitting this letter and attachment in response to recently identified deficiencies in Montana's November 28, 2007, certification of State Implementation Plan (SIP) compliance with the requirements of Section 110(a)(1) and (2) of the Clean Air Act (CAA) for the 1997 8-hour National Ambient Air Quality Standards (NAAQS) for ozone.

Montana has a well-developed regulatory program that meets the "infrastructure" elements for SIPs as outlined in CAA Section 110(a) for all NAAQS. With regard specifically to the 8-hour ozone NAAQS all 56 Montana counties are currently in attainment or are considered unclassifiable.

The attached document supplements the November 28, 2007, submittal and outlines the Montana provisions, programs, and efforts to meet the requirements of CAA Section 110(a)(1) and (2). This document is not intended to modify or amend any portion or provision of Montana's SIP.

Please feel free to contact me by telephone at (406) 444-0286 or by email at [dklemp@mt.gov](mailto:dklemp@mt.gov) with any questions or further clarification regarding the Department's determination on this issue.

Sincerely,

David L. Klemp  
Bureau Chief  
Air Resources Management Bureau

Enclosure: (1)

cc: Monica Morales, Unit Chief, U.S. EPA Region 8 Air Quality Planning Unit  
Kathy Dolan, U.S. EPA Region 8 Air Quality Planning Unit

**STATE OF MONTANA**  
**1997 8-HOUR OZONE NAAQS CERTIFICATION**

Pursuant to the requirements of the Federal Clean Air Act (CAA), Montana declares that its State Implementation Plan (SIP) meets the requirements of 42 USC 7410(a)(1)(D)(i).

42 USC 7410(a)(1) provides that each State must submit a plan "which provides for implementation, maintenance, and enforcement of such [primary and secondary] standard in each air quality control region (or portion thereof) within such State."

42 USC 7410(a)(2) generally requires plans to include enforceable emission limitations and other control measures, as set forth in more detail in this section, as may be necessary to attain and maintain the standards.

Montana currently has no ozone nonattainment areas and no specific nonattainment area control plans with respect to ozone. The following demonstrates Montana's satisfaction of the requirements of section 110(a)(1) and (2) for the protection of the National Ambient Air Quality Standard (NAAQS) for ozone:

**Emission Limits and Other Control Measures [42 USC 7410 (a)(2)(A)]**

Enforceable control measures exist to protect the ozone NAAQS throughout the state. Montana implements a stationary source permit program which requires subject sources to demonstrate emissions will not cause or contribute to a violation of any NAAQS. ARM 17.8.749. Subject sources are further required to utilize best available control technology (BACT) when installing emission controls. ARM 17.8.752. Montana also regulates open burning and subjects those conducting open burning to BACT requirements as well. Title 17, Chapter 8, subchapter 6.

Except for specific control measures adopted in BER orders, the emission limits and other air pollution control regulations are contained in the following subchapters of Title 17, Chapter 8, ARM: Subchapter 1 – General Provisions; Subchapter 3 – Emission Standards; Subchapter 4 – Stack Heights and Dispersion Techniques; Subchapter 6 – Open Burning; Subchapter 7 – Permit, Construction and Operation of Air Contaminant Sources; Subchapter 8 – Prevention of Significant Deterioration of Air Quality; Subchapter 9 – Permit Requirements for Major Stationary Sources or Major Modifications Locating within Nonattainment Areas; Subchapter 10 – Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating within Attainment or Unclassified Areas; Subchapter 16 – Emission Control Requirements for Oil and Gas Well Facilities Operating Prior to Issuance of a Montana Air Quality Permit.

State Rule(s)	Federal Action*	Action Reference
ARM 17.8.101 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.301 <i>et seq.</i>	approved	44 FR 14036
ARM 17.8.401 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.401 <i>et seq.</i>	approved	61 FR 54947
ARM 17.8.601 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.701 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.801 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.901 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.1001 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.1601 <i>et seq.</i>	Pending	MT submitted 10/16/2006

\*EPA subsequently approved revisions to many of these rules promulgated in later Federal Register publications except for those revisions upon which EPA failed to act and which are currently being addressed as part of a larger EPA Region 8 SIP backlog initiative.

### **Ambient Air Quality Monitoring / Data Systems [42 USC 7410 (a)(2)(B)]**

On an annual basis, the Department evaluates trends in industrial and economic development, meteorology, and population growth and makes other scientific, social, and geographic observations regarding areas of the state which may be adversely affected by the impact of criteria pollutants. Based on this information, the Department identifies potential air pollution "hotspots." The Department, with participation and input from local control program staff and other interested persons, makes decisions regarding monitor type, location, and schedules for monitoring air quality in these hotspots. The Department makes the product of this decision making process, the annual monitoring network plan, available for public inspection prior to submission to EPA.

Pursuant to its Quality Assurance Project Plans, the Department makes arrangements to operate and maintain federal reference monitors and establishes federally-approved protocols for sample collection, handling, and analysis. Ambient air monitoring data is subject to strict quality assurance/quality control processes. Air monitoring data is included in the AIRS database.

Montana has monitored the Billings area for ambient ozone levels since June 2005. No exceedances have been recorded.

The provisions in state law for the collection and analysis of ambient air quality data is contained in the Clean Air Act of Montana (MT CAA), 75-2-101 *et seq.*, MCA, and specifically, 75-2-112, MCA, Powers and Responsibilities of Department.

### **Program for Enforcement of Control Measures [42 USC 7410 (a)(2)(C)]**

Congress directed States to develop and implement measures to prevent significant deterioration (PSD) of air quality pursuant to 42 USC §§7470, *et seq.* and 7501, *et seq.* Pursuant to ARM 17.8.130, sources subject to the provisions of Title 17, Chapter 8, subchapters 8, 9, and 10, ARM, regulating construction of new or modified stationary sources consistent with PSD and New Source Review (NSR) requirements, shall be subject to enforcement. The Department has the authority to issue a notice of violation, complaint regarding the source violation, and an order to take corrective action.

State Rule(s)	Federal Action*	Action Reference
ARM 17.8.130	approved	71 FR 3770
ARM 17.8.801 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.901 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.1001 <i>et seq.</i>	approved	60 FR 36715

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The provisions in state law for the enforcement of emission limitations and other control measures, means or techniques is contained in the MT CAA, 75-2-101 *et seq.*, MCA, and specifically, 75-2-111, MCA, Powers of the Board and 75-2-112, MCA, Powers and Responsibilities of Department.

### Interstate Transport [42 USC 7410 (a)(2)(D)]

The Montana SIP contains adequate provisions prohibiting any source or type of emissions activity within the State from emitting any air pollutant in any amounts that will contribute significantly to non-attainment in or interfere with the maintenance by any other State with respect to the ozone NAAQS.

Although the "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone," (CAIR) may change significantly following EPA's rewrite of its provisions, the preamble to the initial CAIR rulemaking referenced analyses useful to this certification. In the preamble to CAIR, EPA noted: "In analyzing significant contribution to non-attainment, we determined it was reasonable to exclude the Western U.S., including the states of Washington, Idaho, Oregon, California, Nevada, Utah and Arizona from further analysis due to geography, meteorology, and topography. Based on these factors, we concluded that the PM 2.5 and 8-hour ozone non-attainment problems are not likely to be affected significantly by pollution transported across these states' boundaries. Therefore, for the purpose of assessing State's contributions to non-attainment in other states, we have only analyzed the non-attainment counties located in the rest of the U.S." (See "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule Preamble)," 69 FR at 4581).

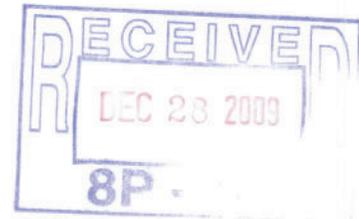
EPA's CAIR analysis identified states contributing significantly to non-attainment of ozone in adjacent states, and Montana was not identified. The closest ozone nonattainment areas to Montana are the Denver / Fort Collins area in Colorado, and the Chico area in California. Fort Collins is over 400 miles from Billings - the closest major city in Eastern Montana, and Chico is over 600 miles from Missoula - the closest major city in Western Montana.

The Chico Ozone Nonattainment Area: The Chico Ozone nonattainment area is the nearest ozone nonattainment area to Western Montana. Chico is over 600 miles from Missoula - the southwesternmost urban area in Montana. The supporting documentation for the Chico nonattainment designation indicates the Chico area is geographically, meteorologically, and topographically separate from areas to the north, including Montana. Montana does not contribute to interstate transport of emissions to this area.



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The Denver / Fort Collins, Colorado Ozone Nonattainment Area: The Denver / Fort Collins, Colorado Ozone nonattainment area is the nearest ozone nonattainment area to Eastern Montana. Fort Collins is over 400 miles from Billings - the easternmost urban area in Montana. The supporting documentation for the Denver / Fort Collins nonattainment designation indicates the Fort Collins area is geographically, meteorologically and topographically separate from areas to the north, including Montana. Montana does not contribute to interstate transport of emissions to this area.

#### **Adequate Resources [42 USC 7410 (a)(2)(E)]**

No state or federal provisions prohibit the implementation of any provision of the Montana SIP. Montana devotes adequate resources to SIP development and maintenance sufficient to ensure attainment and maintenance of the NAAQS for ozone.

Montana receives from EPA grant monies intended to fund programs to protect NAAQS. Montana allocates a portion of the EPA grant money to fund SIP activities for attainment and maintenance of the NAAQS. Montana imposes and collects fees from permit applicants. Montana allocates all of the permit fee revenue to activities associated with permitting and compliance of regulated sources of air pollutants, including criteria pollutant emissions. Montana also receives state general funds to conduct state air quality program activities. Montana allocates all state general funding to non-permit air program activities, including SIP programs for attainment and maintenance of the NAAQS.

The Air Resources Management Bureau has 50 fulltime equivalent positions with an annual budget of \$6.3 million dollars for fiscal year 2010. The program funding is broken down as follows: \$163,536 from state general funds, \$1,643,940 from federal grants, and \$4,546,047 from stationary source fees.

The provisions in state law providing for adequate resources are contained in the MT CAA, 75-2-101 *et seq.*, MCA. More specifically, those provisions are contained in 75-2-102, MCA, Intent – Policy and Purpose; 75-2-111, MCA, Powers of the Board and 75-2-112, MCA, Powers and Responsibilities of Department.

The Montana Board of Environmental Review (BER) oversees the Montana Department of Environmental Quality, including actions taken by the state air program. The composition and requirements of the BER are detailed in 2-15-3502, MCA, 2-15-121, MCA, and 2-15-124, MCA. Laws related to conflict of interest in Montana state government are found in 2-2-201, MCA, and 2-2-202, MCA.

#### **Stationary Source Monitoring System [42 USC 7410 (a)(2)(F)]**

Montana requires stationary sources subject to state regulation to annually submit all information necessary to complete a source emissions inventory. Affected permits require emissions monitoring from stationary sources of air pollution, including PM emissions. Further, on an annual basis, the Department compiles a state emissions inventory of all regulated sources for the evaluation of compliance with applicable standards and inclusion in EPA database.

State Rule(s)	Federal Action*	Action Reference
ARM 17.8.105	Approved	66 FR 42427
ARM 17.8.106	Approved	66 FR 42427
ARM 17.8.505	Not submitted	State only rule

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### **Emergency Episode Powers [42 USC 7410 (a)(2)(G)]**

On January 3, 2006, EPA approved Montana's Emergency Episode Avoidance Plan (EEAP) in 71 FR 19. Montana's EEAP made provision for emergency control of all criteria pollutants. Under authority granted by the 75-2-402, MCA, Emergency Procedures and the Montana's EEAP, the Department may order sources of pollution to limit or cease emissions. The MT CAA is not subject to approval by EPA.

### **Future SIP Revisions [42 USC 7410 (a)(2)(H)]**

The MT CAA invests in the BER the authority to adopt, amend, and repeal rules for administering, implementing, and enforcing rules promulgated to regulate emissions of air pollutants, including rules necessary to establish measures to attain and maintain the NAAQS. The Governor submits, for inclusion into the SIP, rules determined to be necessary to attain and maintain the NAAQS.

The provisions in state law providing for adoption of rules and regulations are contained in the MT CAA, 75-2-101 *et seq.*, MCA. More specifically, those provisions are contained in 75-2-102, MCA, Intent – Policy and Purpose; 75-2-111, MCA, Powers of the Board and 75-2-112, MCA, Powers and Responsibilities of Department.

### **SIP NAA Plan Development [42 USC 7410 (a)(2)(I)]**

All control plans for non-attainment areas in Montana are prepared in accordance with the applicable requirements of 42 USC 7501-7505. There are no ozone non-attainment areas in Montana.

### **Consultation with Government Officials, Public Notification, and PSD and Visibility Protection [42 USC 7410 (a)(2)(J)]**

Montana satisfies EPA's requirements for intergovernmental relations, see 59 FR 2988. Montana has not changed or revoked consultation processes since that time. Montana holds public meetings and hearings on all SIP revisions in accordance with 40 CFR 51, Appendix V and Montana's open meeting laws. See 2-2-203, MCA.

On January 3, 2006, EPA approved Montana's EEAP in 71 FR 19. Montana's EEAP provides for all criteria pollutants, including ozone. The EEAP contains provisions for disseminating information regarding an exceedance of the NAAQS to appropriate news media, health officials, law enforcement, and others. The Department notice includes recommendations for actions citizens may take to reduce the impact of their activities and reduce their exposure.

Montana also complies with 40 CFR §51.930 during exceptional events.

Congress directed States to develop and implement measures to prevent significant deterioration of air quality pursuant to 42 USC §7471. Montana adopted permitting requirements for major sources proposing to modify or construct; PSD rules in subchapter 8 and nonattainment New Source Review rules in subchapter 10 of Title 17, Chapter 8, ARM. Montana continues to implement and enforce these rules. Montana consults with Federal Land Managers as needed and/or required.

State Rule(s)	Federal Action*	Action Reference
ARM 17.8.801 <i>et seq.</i>	Approved	60 FR 36715
ARM 17.8.1001 <i>et seq.</i>	Approved	60 FR 36715

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EPA Region 8 is preparing a federal implementation plan (FIP) to address the federal Regional Haze Regulations.

#### **Air Quality Modeling/Data [42 USC 7410 (a)(2)(K)]**

Montana requires an applicant proposing to construct or modify a source of criteria pollutants to demonstrate the facility can be expected to operate in compliance with applicable law and that it will not cause or contribute to a violation of any NAAQS. Sources subject to the provisions of Title 17, Chapter 8, Subchapters 7, 8, 9, and 10, ARM (regulating construction of new or modified major stationary sources consistent with PSD and New Source Review (NSR) requirements) shall demonstrate the facility can be expected to operate in compliance with applicable law and that it will not cause or contribute to a violation of any NAAQS.

State Rule(s)	Federal Action*	Action Reference
ARM 17.8.701 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.801 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.901 <i>et seq.</i>	approved	60 FR 36715
ARM 17.8.1001 <i>et seq.</i>	approved	60 FR 36715

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Absent any privacy restrictions regarding the release of proprietary business information, all preconstruction data and analysis regarding the results of source predictive modeling for purposes of NAAQS compliance is public information available for anyone, including EPA, to review upon request.

#### **Permitting Fees [42 USC 7410 (a)(2)(L)]**

Montana has an approved Title V permitting program. Montana requires an applicant proposing to construct or modify an air pollution source to pay an application fee. See ARM 17.8.504. Pursuant to ARM 17.8.505, Montana assesses an annual air quality

operation fee against the owner or operator of any source issued a Montana air quality permit or an operating permit or which is registered with the Department as an oil and gas facility under ARM 17.8.1701, *et seq.*

State Rule(s)	Federal Action	Action Reference
ARM 17.8.504	Not submitted	State only rule
ARM 17.8.505	Not submitted	State only rule
ARM 17.8.1701, <i>et seq.</i>	Pending	MT submitted 11/1/06

**Consultation/Participation by Affected Local Entities [42 USC 7410 (a)(2)(M)]**

As a matter of practice, the Department consults with the local agencies when necessary to implement a control plan for a nonattainment area. The Department also meets with county air pollution control program staff and discusses monitoring issues, including ozone, prior to making decisions regarding monitoring needs, monitor type, locations, and monitoring schedules.

Section 75-2-112(2)(j) of the MT CAA requires the Department to "...advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate and interlocal agencies, the United States, and any interested persons or groups;..."

Parties affected by Department actions, including local political subdivisions, may petition the BER for a hearing and address of their grievances, see ARM 17.8.140, 17.8.141 and 17.8.142.

State Rule(s)	Federal Action	Action Reference
ARM 17.8.140	Approved	66 FR 42427
ARM 17.8.141	Approved	66 FR 42427
ARM 17.8.142	Approved	66 FR 42427