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OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR

JOHN BOHLINGER
LT. GOVERNOR

February 10, 2010

Carol Rushin
Regional Administrator, Acting
USEPA, Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

Dear Ms. Rushin:

On June 28, 2000, Montana submitted revisions to the Montana State Implementation Plan (SIP) regarding revisions to the Administrative Rules of Montana, ARM 17.8.101, 17.8.308, and 17.8.320. Montana made this submission to ensure the adequacy of the SIP regarding the infrastructure-related elements of 42 USC §7410(a) necessary to implement the 1997 National Ambient Air Quality Standard (NAAQS) for PM2.5. On February 26, 2008, EPA promulgated a direct and final action approving the June 28, 2000, revisions.

EPA revised the PM2.5 NAAQS in 2006. Montana's administrative rules, as approved on February 26, 2008, remain valid in support of the implementation of the 2006 revised PM2.5 NAAQS. Therefore, Montana certifies, according to 42 USC §7410(a), that its SIP provides for the implementation, maintenance, and enforcement of the 2006 PM2.5 NAAQS.

For your reference, this submission includes an attachment providing an adequacy demonstration of Montana's compliance with the SIP infrastructure elements set forth at 42 USC §7410(a)(2). If you have any questions regarding this action, please contact Eric Merchant, the DEQ's Air Quality Policy and Planning Supervisor, by telephone at (406)444-1457 or by email at emerchant@mt.gov.

Sincerely,

BRIAN SCHWEITZER
Governor

Enclosure
c: Monica Morales, Chief, Air Quality Planning Unit, USEPA Region 8
Kathy Dolan, Air Quality Planning Unit, USEPA Region 8

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STATE OF MONTANA
PM2.5 SIP ADEQUACY DEMONSTRATION

Pursuant to the requirements of the Federal Clean Air Act (CAA), Montana's State Implementation Plan (SIP) meets the requirements of 42 USC 7410(a) for the revised 2006 PM2.5 National Ambient Air Quality Standards (NAAQS).

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.

With respect to the 1997 PM2.5 NAAQS for annual averages, Montana has one nonattainment area in Lincoln County (Libby Area). Historical monitoring data from the Libby Area indicated a violation of the annual standard under the 1997 PM2.5 NAAQS. The Montana Board of Environmental Review (BER) approved the Lincoln County Health and Environment Regulations (Lincoln Rules) on March 23, 2006 and the Governor submitted the subject rules to EPA for inclusion into the SIP on June 26, 2006.

In 2006, the short-term PM2.5 NAAQS for 24-hour averages was revised (lowered) while the level and form of the annual standard remained the same. The Libby control plan was effective in maintaining ambient PM2.5 concentrations at a level below both the annual and revised 2006 24-hour PM2.5 NAAQS. On October 8, 2009, EPA notified the State of Montana that the Libby Area was in attainment with the 2006 PM2.5 NAAQS.

The following review demonstrates Montana's satisfaction of the requirements of 42 USC 7410(a)(2) for the protection of the revised 2006 PM2.5 NAAQS.

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

In addition to control plan implementation for the Libby area, Montana implements a statewide program for permitting major and minor stationary sources of air pollution, including PM2.5.

Montana's permitting program(s) require affected sources to demonstrate that source emissions will not cause or contribute to a violation of the NAAQS. Affected sources are further required to utilize best available control technology (BACT) and/or lowest achievable emission rate (LAER), as applicable, for emissions of regulated pollutants.

Montana also regulates major and minor open burning activities and subjects those conducting open burning to BACT requirements.

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 et seq.	approved	60 FR 36715
ARM 17.8.301 et seq.	approved	44 FR 14036
ARM 17.8.401 et seq.	approved	60 FR 36715
ARM 17.8.401 et seq.	approved	61 FR 54947
ARM 17.8.601 et seq.	approved	60 FR 36715
ARM 17.8.701 et seq.	approved	60 FR 36715
ARM 17.8.801 et seq.	approved	60 FR 36715
ARM 17.8.901 et seq.	approved	60 FR 36715
ARM 17.8.1001 et seq.	approved	60 FR 36715

*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 lager EPA Region 8 SIP backlog initiative.

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

In accordance with the requirements of 40 CFR Part 58, the Department of Environmental Quality (Department) operates a statewide air quality monitoring network, including numerous monitoring activities dedicated specifically to PM2.5.

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 emissions of air pollutants, including PM2.5. The Department, with participation and input by local county air pollution control agencies and other interested parties, makes informed decisions regarding the type, location, and schedules for monitoring various air quality parameters, including PM2.5. The product of this decision-making process, the Air Monitoring Network Plan, is made available for public inspection and the Department annually submits the final document to EPA.

All of the Department's ambient air monitoring operations and resultant data is subject to strict quality assurance/quality control (QA/QC) processes. The Department employs a variety of Quality Assurance Project Plans (QAPPs), and Standard Operating Procedures (SOPs) to maintain the highest level of data quality. The Department's air monitoring and data handling QAPPs and SOPs are routinely submitted to EPA for review and approval. The air monitoring data resulting from these rigorous QA/QC processes is uploaded and stored in EPA's national air quality database (AIRS) for further review and analysis.

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. The MT CAA is not subject to approval by EPA.

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

Montana's administrative rules authorize enforcement activities sufficient to ensure enforceable emission control measures are implemented to protect the NAAQS.

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 major stationary sources consistent with PSD and New Source Review (NSR) requirements) shall be subject to enforcement. The Department is authorized 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 et seq.	approved	60 FR 36715
ARM 17.8.901 et seq.	approved	60 FR 36715
ARM 17.8.1001 et seq.	approved	60 FR 36715

*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 lager EPA Region 8 SIP backlog initiative.

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. The MT CAA is not subject to approval by EPA.

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 an amount that will contribute significantly to nonattainment in or interfere with the maintenance by any other State with respect to the PM2.5 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 [for the purpose of interstate PM2.5 transport] due to geography, meteorology, and topography.

Based on these factors, the Department 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)". See 69 FR 4581.

Additionally, in the 'Corrected Response to Significant Public Comments on the Proposed CAIR,' EPA responded: "Regarding modeling of all States, in the PM2.5 modeling for the NPRM, we modeled 41 States, and found that the westernmost of these States made very small contributions to nonattainment in any other state. The nine westernmost states that were NOT modeled for the NPRM are Idaho, Washington, Oregon, Nevada, California, Utah, Arizona, Alaska, and Hawaii. For the revised modeling for the final rule, we reduced the set of States modeled [to 37 for PM] for reasons of efficiency. The additional 4 states NOT modeled for the final rule are Montana, Wyoming, Colorado, and New Mexico". (See Corrected Response to Significant Public Comments on the Proposed Clean Air Interstate Rule, March 2005 – Corrected April 2005, Document ID No. EPA-HQ-2003-0053-2172, pages 200-201.) The results show that Montana does not contribute above the significance threshold for PM2.5.

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.

The Department receives grant monies from EPA intended to fund programs to protect the NAAQS. The Department allocates a portion of the EPA grant money to fund SIP activities for attainment and maintenance of the NAAQS. In addition, Montana imposes and collects fees from permitted sources. Montana allocates a portion of the permit fee revenue to activities associated with permitting and compliance for sources of regulated air pollutants, including PM2.5 emissions. Montana also receives state general funds to conduct state air quality program activities. Montana allocates a portion of 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 is 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 MT CAA is not subject to approval by EPA.

The Montana Board of Environmental Review (BER) adopts regulations and the Montana Department of Environmental Quality implements and enforces those regulations, including those of 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. None of these Montana statues are subject to approval by the federal government.

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

Montana's administrative rules authorize the Department to require monitoring of emissions from stationary sources and annual submissions of 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

*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 lager EPA Region 8 SIP backlog initiative.

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

On January 3, 2006, EPA approved Montana's Emergency Episode Avoidance Plan (EEAP) at 71 FR 19. Montana's EEAP made provision for emergency control of all criteria pollutants. Under authority granted by the 75-2-402, MCA, and the Montana 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 is 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 MT CAA is not subject to approval by EPA.

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

The control plan for the Libby PM2.5 non-attainment area was prepared in accordance with the applicable requirements of 42 USC 7501-7505, as applicable. The Department submitted the plan to EPA in two parts on June 26, 2006 and March 26, 2008. Montana is awaiting EPA's review and approval of the Libby PM2.5 control plan.

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. The MT CAA is not subject to approval by EPA.

On January 3, 2006, EPA approved Montana's EEAP at 71 FR 19. Montana's EEAP provides for all criteria pollutants, including PM. 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 9 and 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 et seq.	Approved	60 FR 36715
ARM 17.8.901 et seq.	approved	60 FR 36715
ARM 17.8.1001 et seq.	Approved	60 FR 36715

*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 lager EPA Region 8 SIP backlog initiative.

EPA Region 8 is preparing a federal implementation plan (FIP) to address applicable 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 et seq.	approved	60 FR 36715
ARM 17.8.801 et seq.	approved	60 FR 36715
ARM 17.8.901 et seq.	approved	60 FR 36715
ARM 17.8.1001 et seq.	approved	60 FR 36715

*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 lager EPA Region 8 SIP backlog initiative.

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. Sources also must pay an annual operation fee, see ARM 17.8.505.

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

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/local air pollution control program staff and discusses monitoring issues, including monitoring for PM2.5, 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;..." The MT CAA is not subject to approval by EPA.

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