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with applicable emission limitations or other control measures that are part of the applicable plan.

(2) Commencing after the initial 16 necessary by the Regional Administrator pursuant to paragraph (b)(1) of this section, the owner or operator of the source shall maintain records of the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the plan. The information recorded shall be summarized and reported to the Regional Administrator, on forms furnished by the Regional Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1 to June 30 and July 1 to December 31.

(3) Information recorded by the owner or operator and copies of this summarizing report submitted to the Regional Administrator shall be retained by the owner or operator for 2 years after the date on which the pertinent report is submitted.

(4) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures that are part of the applicable plan and will be available at the appropriate regional office and at other locations in the state designated by the Regional Administrator.


§ 52.1379 Legal authority.

(a) The requirements of §51.230(f) of this chapter are not met, since section 69–3918 of the Montana Clean Air Act could, in some circumstances prohibit the disclosure of emission data to the public. Therefore, section 69–3918 is disapproved.

The excluded provisions of §52.1370(c)(51)(i)(B) and (C) are disapproved. These provisions are disapproved because they do not entirely conform to the requirement of section 110(a)(2) of the Act that SIP limits must be enforceable, nor to the requirement of section 110(d) that the SIP can be modified only through the SIP revision process. The following phrases, words, or section in exhibit A of the stipulation between the Montana Department of Environmental Quality (MDEQ) and Asarco, adopted by order issued on June 26, 1996 by the Montana Board of Environmental Review (MBER), are disapproved:

(i) The words, “or an equivalent procedure” in the second and third sentences in section 2(A)(22) of exhibit A;

(ii) The words, “or an equivalent procedure” in the second and third sentences in section 2(A)(28) of exhibit A;

(iii) The words, “or an equivalent procedure” in the second sentence in section 5(G) of exhibit A;

(iv) The sentence, “Any revised documents are subject to review and approval by the Department as described in section 12,” from section 6(E) of exhibit A;

(v) The words, “or a method approved by the Department in accordance with the Montana Source Testing Protocol and Procedures Manual shall be used to measure the volumetric flow rate at each location identified,” in section 7(A)(2) of exhibit A;

(vi) The sentence, “Such a revised document shall be subject to review and approval by the Department as described in section 12,” in section 11(C) of exhibit A;

(vii) The sentences, “This revised Attachment shall be subject to the review and approval procedures outlined in Section 12(B). The Baghouse Maintenance Plan shall be effective only upon full approval of the plan, as revised. This approval shall be obtained from the Department by January 6, 1997. This deadline shall be extended to the extent that the Department has exceeded the time allowed in section 12(B) for its review and approval of the revised document,” in section 12(A)(7) of exhibit A; and

(viii) Section 12(B) of exhibit A.

(2) Paragraphs 15 and 16 of the stipulation by the MDEQ and Asarco adopted by order issued on June 26, 1996 by the MBER are disapproved. Paragraph 20 of the stipulation by the MDEQ and American Chemet adopted by order issued on August 4, 1995 by the MBER is disapproved.

(c) Administrative Rules of Montana 17.8.324(1)(c) and 2(d) (formerly ARM 16.8.1425(1)(c) and (2)(d)) of the State’s rule regulating hydrocarbon emissions from petroleum products, which were submitted by the Governor on May 17, 1994 and later recodified with a submittal by the Governor on September 19, 1997, and which allow the discretion by the State to allow different equipment than that required by this rule, are disapproved. Such discretion cannot be allowed without requiring EPA review and approval of the alternative equipment to ensure that it is equivalent in efficiency to that equipment required in the approved SIP.

(d) In §52.1370(c)(46), we approved portions of the Billings/Laurel Sulfur Dioxide SIP and incorporated by reference several documents. This paragraph identifies those portions of the Billings/Laurel SO2 SIP that have been disapproved.

(1) In §52.1370(c)(46)(1)(A) through (G), certain provisions of the documents incorporated by reference were excluded. The following provisions that were excluded by §52.1370(c)(46)(1)(A) through (G) are disapproved. We cannot approve these provisions because they do not conform to the requirements of the Clean Air Act:

(i) The following paragraph and portions of sections of the stipulation and exhibit A between the Montana Department of Environmental Quality and Cenex Harvest Cooperatives adopted by Board Order issued on June 12, 1998, by the Montana Board of Environmental Review:

(A) Paragraph 20 of the stipulation;

(B) The following phrase from section 3(B)(2) of exhibit A: “or in the flare”; and

(C) The following phrases in section 4(D) of exhibit A: “or in the flare” and “or the flare.”

(ii) Paragraph 20 of the stipulation between the Montana Department of Environmental Quality and Conoco,
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Inc., adopted by Board Order issued on June 12, 1998, by the Montana Board of Environmental Review.

(iii) The following paragraphs and portions of sections of the stipulation and exhibit A between the Montana Department of Environmental Quality and Exxon Company, USA, adopted by Board Order issued on June 12, 1998, by the Montana Board of Environmental Review:

(A) Paragraphs 1 and 22 of the stipulation;
(B) The following phrase of section 3(E)(4) of exhibit A: "or in the flare"; and
(C) The following phrases of section 4(E) of exhibit A: "or in the flare" and "or the flare."

(iv) Paragraph 20 of the stipulation between the Montana Department of Environmental Quality and Exxon Company, USA, adopted by Board Order issued on June 12, 1998, by the Montana Board of Environmental Review.

(v) The following paragraphs and sections of the stipulation and exhibit A between the Montana Department of Environmental Quality and Exxon Company, USA, adopted by Board Order issued on June 12, 1998, by the Montana Board of Environmental Review:

(A) Paragraphs 1, 2 and 22 of the stipulation; sections 3(A)(1)(a) and (b), 3(A)(3), and 3(A)(4) of exhibit A.

(vi) Paragraph 20 of the stipulation between the Montana Department of Environmental Quality and Western Sugar Company, adopted by Board Order issued on June 12, 1998, by the Montana Board of Environmental Review.

(vii) Paragraph 20 of the stipulation between the Montana Department of Environmental Quality and Western Sugar Company, adopted by Board Order issued on June 12, 1998, by the Montana Board of Environmental Review.

(2) Section (3)(A)(2) of exhibit A of the stipulation between the Montana Department of Environmental Quality and Western Sugar Company, adopted by Board Order issued on June 12, 1998, by the Montana Board of Environmental Review.

(f) Administrative Rules of Montana 17.8.335 of the State's rule entitled "Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants," submitted by the Governor on January 16, 2003, is disapproved. We
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cannot approve this rule into the SIP because it is inconsistent with the Act (e.g., sections 110(a) and 110(l)), prior rulemakings and our guidance.


§§ 52.1385–52.1386 [Reserved]

§ 52.1387 Visibility protection.

(a) The requirements of section 169A of the Clean Air Act are not met because the plan does not include approvable procedures for protection of visibility in mandatory Class I Federal areas.

(b) Long-term strategy. The provisions of §52.29 are hereby incorporated into the applicable plan for the State of Montana.

[52 FR 45138, Nov. 24, 1987]

§ 52.1388 Stack height regulations.

The State of Montana has committed to revise its stack height regulations should EPA complete rulemaking to respond to the decision in NRDC v. Thomas, 838 F. 2d 1224 (D.C. Cir. 1988). In a letter to Douglas M. Skie, EPA, dated May 6, 1988, Jeffrey T. Chaffee, Chief, Air Quality Bureau, stated:

* * * We are submitting this letter to allow EPA to continue to process our current SIP submittal with the understanding that if EPA’s response to the NRDC remand modifies the July 8, 1985 regulations, EPA will notify the State of the rules that must be changed to comply with the EPA’s modified requirements. The State of Montana agrees to make the appropriate changes.

[54 FR 24341, June 7, 1989. Redesignated at 55 FR 19662, May 9, 1990]

§ 52.1389 [Reserved]

§ 52.1390 Missoula variance provision.

The Missoula City-County Air Pollution Control Program’s Chapter X, Variances, which was adopted by the Montana Board of Health and Environmental Sciences on June 28, 1991 and submitted by the Governor of Montana to EPA in a letter dated August 20, 1991, is disapproved. This rule is inconsistent with section 110(i) of the Clean Air Act, which prohibits any State or EPA from granting a variance from any requirement of an applicable implementation plan with respect to a stationary source.

[59 FR 64139, Dec. 13, 1994]

§ 52.1391 Emission inventories.

(a) The Governor of the State of Montana submitted the 1990 carbon monoxide base year emission inventories for Missoula and Billings on July 18, 1995, as a revision to the State Implementation Plan (SIP). The Governor submitted the 1990 carbon monoxide base year emission inventory for Great Falls on April 23, 1997, as a revision to the SIP. The inventories address emissions from point, area, on-road mobile, and non-road sources. These 1990 base year carbon monoxide inventories satisfy the nonattainment area requirements of the Clean Air Act of section 187(a)(1) for Missoula and section 172(c)(3) for Billings and Great Falls.

(b) As part of the Thompson Falls Air Pollution Control Plan (approved at §52.1370(c)(60)), the Governor of Montana submitted a PM–10 emission inventory for the Thompson Falls area as a SIP revision. The PM–10 emission inventory covers the time period of July 1, 1990 through June 30, 1991.


§ 52.1392 Federal Implementation Plan for the Billings/Laurel Area.

(a) Applicability. This section applies to the owner(s) or operator(s), including any new owner (s) or operator(s) in the event of a change in ownership or operation, of the following facilities in the Billings/Laurel, Montana area: CHS Inc. Petroleum Refinery, Laurel Refinery, 803 Highway 212 South, Laurel, MT; ConocoPhillips Petroleum Refinery, Billings Refinery, 401 South 23rd St., Billings, MT; ExxonMobil Petroleum Refinery, 700 Exxon Road, Billings, MT; and Montana Sulphur & Chemical Company, 627 Exxon Road, Billings, MT.

(b) Scope. The facilities listed in paragraph (a) of this section are also subject to the Billings/Laurel SO2 SIP, as approved at 40 CFR 52.1370(c)(46) and (52). In cases where the provisions of