

State of Montana 110(a)(2) SIP Requirements for Ozone (O₃)

Executive Summary

The Clean Air Act directs the Environmental Protection Agency (EPA) to set National Ambient Air Quality Standards (NAAQS) for six criteria pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. To identify how the state will attain and maintain the primary and secondary NAAQS, Montana prepares a State Implementation Plan (SIP). The SIP contains regulations, source-specific requirements, non-regulatory items such as plans and inventories, and in some cases additional requirements promulgated by the EPA. The initial SIPs for states were approved by EPA on May 31, 1972. The federally enforceable SIP for Montana is compiled in 40 CFR Part 52 Subpart BB. A state may revise its SIP with EPA approval as necessary.

On October 1, 2015, EPA strengthened the ozone (O₃) NAAQS from a level of 75 parts per billion (ppb) to 70 ppb [see 80 FR 65292]. On November 16, 2017, EPA designated all of Montana's counties as attainment/unclassifiable for the 2015 O₃ NAAQS [see 82 FR 54232]. Within three years following promulgation of a new or revised NAAQS, section 110(a)(1) of the Clean Air Act requires that states submit a SIP meeting the requirements outlined in section 110(a)(2). The table on the following pages outlines the elements of section 110(a)(2)(A) through (M) and describes how Montana's SIP meets these requirements with respect to the 2015 O₃ NAAQS.

State authority for Montana's air quality program is codified in Chapter 2 (Clean Air Act of Montana or MT CAA), in Title 75 (Environmental Protection) of the Montana Code Annotated (MCA), which confers upon the Board of Environmental Review and the Department of Environment Quality certain authorities to adopt rules and implement the MT CAA. The regulatory authority to implement programs appropriate for controlling emissions of regulated air pollutants is contained in the Administrative Rules of Montana, specifically Chapter 8 of Title 17 for Air Quality.

Section 110 State Implementation Plans for National Primary and Secondary Ambient Air Quality Standards

110(a) Adoption of plan by State; submission to Administrator; content of plan; revision; new sources; indirect source review program; supplemental or intermittent control systems

110(a)(2)(A): Emission Limits and Other Control Measures

Clean Air Act Citation:

"include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions or emissions rights), as well as schedules and timetable for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter;"

Applicable Montana Requirements:

Montana implements a statewide program for permitting major and minor stationary sources of air pollution, including sources of Ozone precursors. Montana's permitting programs require affected sources to demonstrate that source emissions will not cause or contribute to a violation of the National Ambient Air Quality Standards (NAAQS). Affected sources are further required to utilize best available control technology (BACT) for emissions of regulated pollutants.

Montana also regulates major and minor open burning activities and subjects those conducting open burning to BACT requirements. Montana does not exempt from legal enforcement actions, excess emissions that occur during start-up, shutdown, maintenance, or malfunction. Emissions in excess of permit or regulatory limits are presumptively violations, subject to affirmative defenses with the burden of proof on the respondent. See specifically, Administrative Rules of Montana (ARM) 17.8.110.

Except for area-specific State Implementation Plan (SIP) requirements, the emission limits and other air pollution control regulations are contained in the subchapters of the ARM listed below. As indicated, the provisions have previously been submitted and approved into the Montana SIP.

State Rules & Regulations	Reference
ARM 17.8.101 et seq. - General Provisions	
ARM 17.8.301 et seq. - Emission Standards	
ARM 17.8.401 et seq. - Stack Heights and Dispersion Techniques	
ARM 17.8.601 et seq. - Open Burning	
ARM 17.8.701 et seq. - Permit, Construction, and Operation of Air Contaminant Sources	
ARM 17.8.801 et seq. - Prevention of Significant Deterioration of Air Quality	40 CFR § 52.1370(c)
ARM 17.8.901 et seq. - Permit Requirements for Major Stationary Sources or Major Modifications Locating within Nonattainment Areas	
ARM 17.8.1001 et seq. - Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating within Attainment or Unclassified Areas	
ARM 17.8.1601 et seq. - Emission Control Requirements for Oil and Gas Well Facilities Operating Prior to Issuance of a Montana Air Quality Permit	
ARM 17.8.1701 et seq. - Registration of Air Contaminant Sources	

110(a)(2)(B): Ambient Air Quality Monitoring and Data

Clean Air Act Citation:

"provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator;"

Applicable Montana Requirements:

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

On an annual basis, the Department evaluates trends in industrial and economic development, meteorology, and population growth, and conducts other scientific, social, and geographic observations regarding areas of the state which may be adversely affected by emissions of air pollutants, including ozone. Based on this information, the Department identifies potential air pollution "hotspots." The Department, with participation and input from local air pollution control program staff and other interested persons, makes decisions regarding monitor type, location, and schedules for monitoring air quality in these hotspots. The product of this decision-making process, the annual monitoring network plan, is made available by the Department for public review and comment prior to submission to EPA. Montana's most recent annual monitoring network plan was submitted to EPA on July 1, 2018. Further, in accordance with the Code of Federal Regulations (CFR) Title 40 part 58.10, beginning in July 2010, and every 5 years thereafter, Montana develops a periodic network assessment to ensure the effective implementation of an adequate ambient air quality surveillance system. The periodic network assessment is made available by the Department for public review and comment prior to submission to EPA.

All of the Department's ambient air monitoring operations and the resulting data is subject to strict quality assurance/quality control (QA/QC) processes. In accordance with 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. Air monitoring data is submitted to EPA's national "AIRS" database.

There are no communities in Montana that are currently required to have ambient ozone monitors. However, the Department operates 6 ozone monitoring sites, in addition to the required NCore site, in an effort to determine ozone background concentrations and potential impacts. The need for this non-required monitoring is carefully analyzed each year during the annual monitoring review process.

State Rules & Regulations	Reference
75-2-112, MCA - Powers and Responsibilities of Department	State Statute

110(a)(2)(C): Program to Provide for Enforcement of Control Measures

Clean Air Act Citation:

"include a program to provide for enforcement the of measures in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter;"

Applicable Montana Requirements:

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. In accordance with ARM 17.8.130, sources subject to the provisions of ARM Title 17, Chapter 8, subchapters 8, 9, and 10 (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.

Montana's SIP-approved PSD program generally meets the requirements of Part C of the Act. Effective October 12, 2012, the Montana Board of Environmental Review (BER) adopted amendments to the ARM to ensure proper regulation of nitrogen oxides as a precursor for ozone. See specifically ARM 17.8.801 and 17.8.818. EPA published a final rule approving the amended rules into the state implementation plan on January 29, 2015.

On August 20, 2010, the Department provided EPA a report regarding status and implementation authority of its NSR/PSD program in light of EPA rulemaking. The Department stated the following:

"On June 3, 2010, EPA promulgated the final Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Tailoring Rule ("Tailoring Rule," 75 FR 31514). In the preamble for the Tailoring Rule EPA requested feedback regarding each state's ability to implement the provisions of the Tailoring Rule. Montana's existing rules and regulations provide the framework for implementation of PSD and Title V programs consistent with the Tailoring Rule provisions."

State Rules & Regulations	Reference
75-2-111, MCA - Powers of Board	State Statute
75-2-112, MCA - Powers and Responsibilities of Department	State Statute
ARM 17.8.130 - Enforcement Procedures--Notice of Violation--Order to Take Corrective Action	
ARM 17.8.801 et seq. - Prevention of Significant Deterioration of Air Quality	
ARM 17.8.901 et seq. - Permit Requirements for Major Stationary Sources or Major Modifications Locating within Nonattainment Areas	40 CFR § 52.1370(c)
ARM 17.8.1001 et seq. - Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating within Attainment or Unclassified Areas	

110(a)(2)(D): Interstate Transport

Clean Air Act Citation:

"contain adequate provisions - (i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will: (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility, (ii) insuring compliance with the applicable requirements of sections 7426 and 7415 of this title (relating to interstate and international pollution abatement);"

Applicable Montana Requirements:

The Montana SIP contains adequate provisions prohibiting any source or other type of emissions activity within the State from emitting any air pollutant in any amounts that will contribute significantly to nonattainment in, or interfere with the maintenance by, any other State with respect to the ozone NAAQS. These rules and regulations are included in ARM Title 17, Chapter 8, subchapters 7, 8, 9, 10, 16, and 17. See specifically, ARM 17.8.749, 17.8.820, 17.8.904, 17.8.1004, and 17.8.1603.

In 2015, EPA updated the primary standards for ozone (O₃). The revised standard triggered the requirement for Montana to assess air pollution contributions to areas with and O₃ concerns. In this submittal, Montana Department of Environmental Quality (DEQ) demonstrates that Montana sources do not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour O₃ NAAQS in any other state.

EPA and states have historically focused efforts to address ozone transport on reductions of NO_x. Between 1990 and 2016, concentrations of ground-level ozone (8-hour) declined 17 percent nationwide and 8 percent in the Northwest. In the Eastern U.S., EPA continues to implement measures to reduce ozone interstate transport through implementation of the 2016 Cross-State Air Pollution Rule (CSAPR), which effectively replaced the 2003 NO_x Budget Trading Program and 2005 Clean Air Interstate Rule (CAIR).⁴ There is no comparable program for western states.

On March 28 2018, EPA released its "Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)" (Ozone Transport memo) by Peter Tsirigotis. In the Ozone Transport memo, EPA details photochemical air quality modeling it performed to project ozone concentrations at air quality monitoring sites to the year 2023. EPA then estimated state-by-state contributions to those 2023 concentrations.

EPA applies the CSAPR approach in the Ozone Transport memo for identifying nonattainment and maintenance receptors and for identifying upwind states that contribute to these receptors based on the screening threshold (1 percent of the NAAQS). The "Ozone Transport TSD" states that based on the modeling results a state could demonstrate either that its contribution is below the screening threshold, or that it could evaluate the scope of its transport obligation and identify measures to achieve any needed emissions reductions. Montana DEQ reviewed EPA's modeling of ozone interstate transport for Montana. It indicates that most western states including Montana contribute less than 1 percent to downwind nonattainment or maintenance receptors. EPA's "Ozone Transport TSD" estimated Montana's 2023 contribution to be only 0.1 ppb which is significantly less than the screening threshold of 0.70 ppb and only 0.14 percent of the NAAQS. Following the CSAPR approach, the memo confirms that contributions below the screening threshold do not need further evaluation for actions to address transport.

Montana agrees with EPA's modeling and findings in the Ozone Transport memo and TSD, and therefore finds that Montana does not significantly contribute to nonattainment or interfere with maintenance of the 2015 Ozone NAAQS in any other states.

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... 110(a)(2)(D): Interstate Transport continued

Applicable Montana Requirements:

Sources in Montana are subject to the state's SIP-approved PSD permitting program, ARM 17.8.801 et seq., that applies to all regulated NSR pollutants and that satisfies the requirements of EPA's PSD implementation rule(s). ARM 17.8.901 et seq. Montana's major NSR and minor source permitting programs require a demonstration that sources do not interfere with attainment or maintenance of the NAAQS, including impacts in any other state, prior to construction and operation of a new or modified source. With regard to interference with visibility protection in other states, Montana has an EPA-approved Visibility Plan that includes a reference to BACT as a visibility control measure for open burning administered through the Department's open burning permit program. In addition to Montana's SIP-approved Visibility Plan, a Federal Implementation Plan (FIP) is in place to satisfy the requirements of the Regional Haze program. [77 FR 57863] The FIP and Visibility Plan together demonstrate that sources in Montana do not interfere with visibility protection in other states. However, in their 2013 guidance on infrastructure SIP elements, EPA stated that a FIP cannot be relied upon to meet the requirements of element 110(a)(2)(D)(i)(II) related to visibility. Therefore, until such time as the Department provides an demonstration that emissions within Montana do not interfere with efforts to protect visibility in other states, as described in EPA's guidance, the requirements of Prong 4 are not met.

Consistent with 40 CFR 166(q)(2)(iv), Montana's SIP-approved PSD program requires the Department to notify potentially affected states, tribes, and federal land managers of its intent to approve or disapprove a PSD permit application. See specifically ARM 17.8.826(2)(d). Nothing in Montana's existing SIP precludes the state from ensuring compliance with sections 126 and 115 of the Clean Air Act with respect to the 2015 ozone NAAQS. No sources within the state are the subject of an active finding under section 126 of the Clean Air Act with respect to the 2015 ozone NAAQS. There are no findings under section 115 of the Clean Air Act against Montana with respect to the 2015 ozone NAAQS.

State Rules & Regulations	Reference
ARM 17.8.701 et seq. - Permit, Construction, and Operation of Air Contaminant Sources ARM 17.8.801 et seq. - Prevention of Significant Deterioration of Air Quality ARM 17.8.901 et seq. - Permit Requirements for Major Stationary Sources or Major Modifications Locating within Nonattainment Areas ARM 17.8.1001 et seq. - Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating within Attainment or Unclassified Areas ARM 17.8.1601 et seq. - Emission Control Requirements for Oil and Gas Well Facilities Operating Prior to Issuance of a Montana Air Quality Permit ARM 17.8.1701 et seq. - Registration of Air Contaminant Sources	40 CFR § 52.1370(c)

110(a)(2)(E): Adequate Resources

Clean Air Act Citation:

"provide: (i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof), (ii) requirements that the state comply with the requirements respecting state boards, and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision;"

Applicable Montana Requirements:

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

Montana receives grant monies from EPA intended to fund programs to protect the NAAQS. Montana 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 permit applicants and permitted sources. Montana allocates all of the permit application 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 generally allocates state general funding to non-permit air program activities, including SIP programs for attainment and maintenance of the NAAQS.

The Air Quality Bureau has 45.03 fulltime equivalent positions with an annual projected budget of \$5,694,952 dollars for state fiscal year 2018. Program funding is broken down as follows: \$246,447 from state general funds, \$1,419,043 from federal grants, and \$4,029,462 from state special fees. Montana does not anticipate the need for additional resources to implement the plan for the ozone NAAQS beyond those which have been used for the preparation of the plan and plan revisions submitted to EPA and other current programmatic demands. Montana anticipates funding amounts will remain at similar levels over the next five years.

The BER adopts regulations and the Department implements and enforces those regulations, including those of the state air program. Under 75-2-211(10), 75-2-218(5), and 75-2-201(1), MCA, the BER has authority to hear appeals of permits and enforcement orders under the Act. The composition and requirements of the BER are detailed in 2-15-3502, 2-15-121, and 2-15-124, MCA.

There are five county air pollution control programs authorized to carry out certain portions of Montana's SIP within their respective county boundary. The Department and the BER retain oversight authority in the event the local authority fails to act.

State Rules & Regulations	Reference
75-2-102, MCA - Intent-- Policy and Purpose	State Statute
75-2-111, MCA - Powers of Board	State Statute
75-2-112 - Powers and Responsibilities of Department	State Statute
75-2-301, MCA - Local Air Pollution Control Programs [...]	State Statute

110(a)(2)(F): Stationary Source Monitoring System

Clean Air Act Citation:

"require, as may be prescribed by the Administrator: (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection; "

Applicable Montana Requirements:

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. Further, on an annual basis, the Department compiles a statewide emissions inventory of all regulated sources for the evaluation of compliance with applicable standards and inclusion in EPA database.

State Rule(s)	Reference
ARM 17.8.103 Incorporation by Reference [...]	
ARM 17.8.105 Testing Requirements	40 CFR § 52.1370(c)
ARM 17.8.106 Source Testing Protocol	
ARM 17.8.505 Air Quality Operation Fees	State-Only

110(a)(2)(G): Emergency Powers

Clean Air Act Citation:

"provide for authority comparable to that in section 7603 of this title and adequate contingency plans to implement such authority;"

Applicable Montana Requirements:

General emergency authority comparable to that in section 303 of the CAA is provided to the Department in 75-2-402, MCA. On January 3, 2006, EPA approved Montana's Emergency Episode Avoidance Plan (EEAP) in 71 FR 19. Under the authority granted by 75-2-402, MCA, and the EEAP, the Department may order sources of pollution to limit or cease emissions. Under 75-2-111(3) MCA, Montana's environmental review board has broad authority to "issue orders necessary to effectuate the purposes" of Chapter 2. Also, under 75-2-112(2)(a) MCA, the department of environmental quality has the authority to use "appropriate administrative and judicial proceedings" to enforce orders issued by the board. This assumes any air pollution discharge that created an emergency situation would constitute a violation of the chapter and its purposes, therefore providing the ERB and the DEQ authority to issue administrative orders to stop discharges that cause emergencies effecting welfare and the environment (please verify this assumption). Additionally, 10-3-104 MCA provides the Governor with the authority to suspend statutes and agency rules that would hinder the ability to cope with a disaster, including disasters caused by air contamination.

State Rules & Regulations	Reference
75-2-402, MCA - Emergency Procedure	State Statute
Emergency Episode Avoidance Plan	71 FR 19

110(a)(2)(H): Future SIP Revisions

Clean Air Act Citation:

"provide for revision of such plan: (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter;"

Applicable Montana Requirements:

Montana's SIP is a compilation of regulations, plans, and submittals that act to improve and maintain air quality in accordance with national standards. The MT CAA confers upon 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.

State law contains provisions for adoption of rules and regulations in the MT CAA, 75-2-101 et seq., MCA. Nothing in Montana's statutory or regulatory authority prohibits the State from revising the SIP in the event of a revision to the NAAQS.

State Rules & Regulations	Reference
75-2-102, MCA - Intent-- Policy and Purpose	State Statute
75-2-111, MCA - Powers of Board	State Statute
75-2-112, MCA - Powers and Responsibilities of Department	State Statute

110(a)(2)(I): Nonattainment Plan Development

Clean Air Act Citation:

"in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D of this subchapter (relating to nonattainment areas);"

Applicable Montana Requirements:

All control plans for nonattainment areas (NAAs) in Montana are prepared in accordance with the applicable requirements of 42 USC §7501-7505. NAA plans required under part D are submitted on a different schedule from the section 110(a)(2) infrastructure elements and will be reviewed and acted upon through a separate process. The currently approved NAA SIP provisions listed in 40 CFR Part 52 subpart BB meet part D requirements. With respect to the 2015 revised ozone NAAQS, all areas (Counties) in Montana are classified as attainment or unclassifiable and as such no areas within the state are subject to the requirements of part D.

110(a)(2)(J): Consultation, Public Notification, and PSD & Visibility Protection

Clean Air Act Citation:

"meet the applicable requirements of section 7421 of this title (relating to consultation), section 7427 of this title (relating to public notification), and part C of this subchapter (relating to prevention of significant deterioration of air quality and visibility protection);"

Applicable Montana Requirements:

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 provides opportunity for public hearing on all SIP revisions in accordance with 40 CFR 51, Appendix V and Montana's open meeting laws. See 2-3-203, 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. This Department notice includes recommendations for actions citizens may take to reduce the effect 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 in accordance with 42 USC §7471. Montana adopted permitting requirements for major sources proposing to modify or construct; PSD rules in Subchapters 8 and 10, and nonattainment NSR rules in Subchapter 9 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.

Consistent with EPA's interpretation of the CAA, the visibility sub element is not being addressed at this time.

State Rules & Regulations	Reference
2-3-203, MCA - Board to Set Emission Levels ARM 17.8.801 et seq. - Prevention of Significant Deterioration of Air Quality ARM 17.8.901 et seq. - Permit Requirements for Major Stationary Sources or Major Modifications Locating within Nonattainment Areas ARM 17.8.1001 et seq. - Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating within Attainment or Unclassified Areas	State Statute 40 CFR § 52.1370(c)

110(a)(2)(K): Air Quality Modeling & Data

Clean Air Act Citation:

"provide for: (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator;"

Applicable Montana Requirements:

Sources subject to the provisions of Title 17, Chapter 8, subchapters 7, 8, 9, and 10, ARM (regulating construction of new or modified stationary sources consistent with PSD and 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. See specifically ARM 17.8.821 Air Quality Models, which requires that estimates of ambient concentrations required for PSD permitting be based on the applicable air quality models, databases, and other requirements specified in 40 CFR part 51, appendix W.

Absent any privacy restrictions regarding the release of confidential 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.

State Rules & Regulations	Reference
ARM 17.8.701 et seq. - Permit, Construction, and Operation of Air Contaminant Sources ARM 17.8.801 et seq. - Prevention of Significant Deterioration of Air Quality ARM 17.8.901 et seq. - Permit Requirements for Major Stationary Sources or Major Modifications Locating within Nonattainment Areas ARM 17.8.1001 et seq. - Preconstruction Permit Requirements for Major Stationary Sources or Major Modifications Locating within Attainment or Unclassified Areas	40 CFR § 52.1370(c)

110(a)(2)(L): Permitting Fees

Clean Air Act Citation:

"require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover: (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under subchapter V of this chapter;"

Applicable Montana Requirements:

Montana has an approved part 70 Title V operating permit program (65 FR 37049). Montana requires an applicant proposing to construct or modify an air pollution source to pay an application fee. See ARM 17.8.504. In accordance with 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 Rules & Regulations	Reference
ARM 17.8.504 - Air Quality Permit Application Fees	State-Only
ARM 17.8.505 - Air Quality Operation Fees	State-Only
ARM 17.8.1701, et seq. - Registration of Air Contaminant Sources	40 CFR § 52.1370(c)

110(a)(2)(M): Consultation/Participation by Affected Local Entities

Clean Air Act Citation:

"provide for consultation and participation by local political subdivisions affected by the plan."

Applicable Montana Requirements:

As a matter of practice, the Department consults with the local agencies when necessary to implement a control plan for a NAA. The Department also meets with county air pollution control program staff to discuss monitoring issues, including monitoring for 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 inter-local 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 Rules & Regulations	Reference
ARM 17.8.140 - Rehearing Procedures--Form and Filing of Petition	
ARM 17.8.141 - Rehearing Procedures--Filing Requirements	40 CFR § 52.1370(c)
ARM 17.8.142 - Rehearing Procedures--Board Review	
75-2-112, MCA - Powers and Responsibilities of Department	State Statute