showing primary standard violations (43 FR 8962).

Prior to this official SO₂ nonattainment designation, the Montana Department of Health and Environmental Sciences (MDHES) and Asarco had been working on a plan to reduce SO₂ emissions from the East Helena facility. The main focus of this plan was the construction of a double contact sulfuric acid plant to control SO₂ emissions from the sintering process. Following construction of the acid plant in July 1977, SO₂ concentrations in the rural areas around East Helena decreased dramatically. However, there were still violations being monitored at the Kennedy Park

In response to the Part D SIP requirements of the 1977 CAA Amendments, on April 24, 1979, Montana submitted a SIP revision for the East Helena SO₂ nonattainment area. This SIP revision identified the continued monitored violations as being caused by low-level emissions from three 110-foot stacks serving the smelter's blast furnace operations. The control strategy included replacing the three 110-foot stacks with a single 425foot stack (for which Asarco claimed stack height credit of 375 feet), and setting daily and six-hour emission limits on the new stack. On November 20, 1980, EPA conditionally approved the SIP revision (45 FR 76685). EPA's action was conditioned upon adequate demonstration of good engineering practice (GEP) stack height for the blast furnace stack, and revised dispersion modeling if GEP height was determined to be below 375 feet.

Asarco completed a field tracer study demonstration in 1982, and subsequently proceeded to complete construction of its new stack based on the study results justifying a stack height of 375 feet as necessary to overcome the effects of downwash causing monitored ambient SO₂ violations near the smelter.

On July 5, 1983, EPA proposed to approve the SIP and GEP demonstration as satisfying the conditional approval requirements (48 FR 30696). But, final action was not taken due to pending litigation concerning the federal stack height regulations. As a result of this litigation, the federal stack height regulations were revised on July 5, 1985. Among other things, these revisions changed the requirements for justifying stack heights above the formula height established in 40 CFR 51.100(ii)(2). For this reason, several years later Asarco abandoned its efforts to take credit for the additional blast furnace stack height above formula height. EPA's stack

height analysis and findings for the Asarco facility stacks are discussed further later in this document.

The SIP was further revised with respect to East Helena in order to provide for a catalyst screening procedure at Asarco's acid plant. EPA approved this revision on May 1, 1984 (54 FR 18482).

The 1990 Clean Air Act Amendments 1 ("1990 Amendments"), effective November 15, 1990, reaffirmed the nonattainment designation of East Helena with respect to the primary and secondary SO₂ NAAQS, under section 107(d)(4)(B). See 56 FR 56706 (Nov. 6, 1991) and 40 CFR 81.327 (specifying designation for East Helena). Section 191 required that any state which was lacking an approved SIP for an area designated nonattainment with respect to the national *primary* ambient air quality standard for SO₂ must resubmit a plan meeting the requirements of the amended Act within 18 months of enactment of the amendments, thus by May 15, 1992. For the secondary SO₂ NAAQS SIP for East Helena, EPA established November 15, 1993, as the submittal due date in an action published in the Federal Register on October 7, 1993 (58 FR 52237)

The air quality planning requirements for SO₂ nonattainment areas are set out in subparts 1 and 5 of part D of title I of the Act.² The amended Clean Air Act requires nonattainment area SIP submittals to contain, among other things, provisions to assure that reasonable available control measures (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) are implemented, and that provide for attainment of the primary SO₂ standards within 5 years of enactment of the 1990 Amendments, or November 15, 1995 (see Sections 172(c) and 192(b) of the Act). EPA has issued detailed guidance that describes the Agency's preliminary interpretations regarding SO₂ nonattainment area SIP requirements. [57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992) (hereafter called the "General

Preamble')]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in today's action and the supporting rationale.

II. This Action

The primary SO₂ NAAQS SIP for East Helena was developed by the MDHES in consultation with Asarco, the major SO₂ source in East Helena. The State's efforts have been coordinated with EPA to ensure compliance with SIP requirements. The Montana Board of Health and Environmental Sciences (MBHES) approved a stipulation between the MDHES and Asarco on March 18, 1994, to limit SO₂ emissions from that company's lead smelting operations. This binding agreement was submitted to EPA on March 30, 1994, as part of a revision of the Montana SIP. This SIP revision addresses only the 24hour and annual primary SO₂ NAAQS; Montana will address the 3-hour secondary SO₂ NAAQS in a forthcoming submittal. Hence, this action addresses only the primary SO₂ NAAQS.

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–66). In this action, EPA is approving the primary SO₂ NAAQS SIP revision for the East Helena, Montana, nonattainment area which was due on May 15, 1992, and was submitted by the Governor of Montana on March 30, 1994. EPA is also approving the stack height demonstrations for the Asarco, East Helena, primary lead smelter. EPA believes that the East Helena plan meets the applicable requirements of the Act.

Since the East Helena Primary SO₂ NAAQS SIP was not submitted by May 15, 1992, as required by section 191 of the Act, EPA made a finding that the State failed to submit the SIP, pursuant to section 179 of the Act, and notified the Governor in a letter dated June 16, 1992. See 57 FR 48614 (October 27, 1992). After the East Helena Primary SO2 NAAQS SIP was submitted on March 30, 1994, EPA found the submittal complete pursuant to section 110(k)(1) of the Act and notified the Governor accordingly in a letter dated May 12, 1994. This completeness determination corrected the State's deficiency and, therefore, terminated the sanctions clock under section 179 of the Act.

A. Analysis of State Submission

1. Procedural Background

The Act requires States to observe certain procedural requirements in

¹The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. Sections 7401, et seq.

 $^{^2}$ Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM_{10} nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.