SO₂ from the Sinter (D&L) Building by restricting openings to the building enclosure; maintaining and operating all processes and systems within the Cottrell Penthouse, Mist Precipitator Building, and Pump Tank Building such that conditions which contribute to volume source SO₂ emissions from these sources are not significantly worsened compared to conditions existing during the preparation of the January 20, 1992, emission inventory report; and maintaining and operating all processes and systems associated with the Acid Plant Scrubber Towers such that conditions which contribute to volume source SO₂ emissions from this source are not significantly worsened compared to conditions existing during the preparation of the January 20, 1992, emission inventory report.

A more detailed discussion of the control strategy can be found in the TSD for this action. EPA has reviewed the State's documentation and concluded that it adequately justifies the control measures to be implemented. The implementation of Montana's SO₂ nonattainment plan will result in the attainment of the primary SO₂ NAAQS by November 15, 1995. By this action EPA is approving the East Helena primary SO₂ plan's RACM (including RACT) in its entirety, noting that additional dispersion modeling and control strategy evaluation will be necessary in the future to address the secondary, 3-hour standard.

4. Demonstration

The initial SO₂ nonattainment areas are required to submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable, but no later than November 15, 1995. EPA-approved dispersion models ISCST and RTDM were used to predict ambient SO₂ concentrations around the Asarco facility. The primary SO₂ NAAQS are 365 micrograms per cubic meter ($\mu g/m^3$) (0.14 parts per million (ppm)), averaged over a 24-hour period and not to be exceeded more than once per year, and 80 μ g/m³ (0.03) ppm) annual arithmetic mean (see 40 CFR 50.4). The demonstration for East Helena indicates that the primary SO₂ NAAQS will be attained by November 15, 1995. For a more detailed description of the attainment demonstration and the control strategies used, see the TSD for this action.

5. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (see sections 172(c)(6) and 110(a)(2)(A) of the Act and 57 FR 13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, *et al.* (see 57 FR 13541). Nonattainment area plan provisions also must contain a program to provide for enforcement of control measures and other elements in the SIP (see section 110(a)(2)(C) of the Act).

The specific control measure contained in the SIP are addressed above in section 3, "RACM (including RACT)." The March 18, 1994, stipulation between the MDHES and Asarco has been approved by the MBHES in accordance with section 75-2–301 of the Montana Clean Air Act and effectuated by a MBHES order, and since the MDHES can enforce MBHES orders, the MDHES has independent enforcement powers. The Montana Clean Air Act grants authority to the MDHES to enforce orders of the Board (section 75-2-112, Montana Code Annotated (MCA)). Sections 75-2-412 and 75-2-413, MCA, authorize the MDHES to seek criminal and civil penalties for violations of any Board order in the amount of \$10,000.00 per day of violation, respectively. In addition, Section 75-2-431, MCA, authorizes the MDHES to seek noncompliance penalties for any violation of a Board order. Noncompliance penalties shall be no less than the economic value which a delay in compliance may have for the owner of such a source, including the capital costs of compliance and debt service over a normal amortization period (not to exceed ten years of operation) and maintenance costs foregone as a result of noncompliance.

EPA believes that the State's existing air enforcement program will be adequate to ensure implementation of this SIP revision. The TSD for this action contains further information on enforceability requirements, responsibilities, and resources intended to support effective implementation of the control measures.

6. Reasonable Further Progress

Section 171(l) of the amended Act defines RFP as "such annual incremental reductions in emissions of the relevant air pollutant as are required by [part D] or may reasonably be required by EPA for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." As discussed in the General Preamble, for SO₂, there is usually a single "step" between precontrol nonattainment and post-control attainment. Therefore, for SO₂, with its discernible relationship between emissions and air quality and significant and immediate air quality improvements, RFP is construed as "adherence to an ambitious compliance schedule."

Asarco became responsible for the reporting requirements outlined in the SIP after July 1, 1994. The emission and process limitations outlined above became effective on September 1, 1994. These timelines allow Asarco sufficient opportunity to implement the control strategy, and to gain operating experience before the requirements become effective. The emission limitations went into effect September 1, 1994, a date far in advance of the November 15, 1995 attainment date. EPA concurs that this program constitutes adherence to an ambitious compliance schedule and therefore demonstrates reasonable further progress.

7. Contingency Measures

Section 172(c)(9) of the amended Act defines contingency measures as measures in a SIP which are to be implemented if an area fails to make RFP or fails to attain the NAAQS by the applicable attainment date. Contingency measures become effective without further action by the State or EPA, upon determination by EPA that the area has failed to either make reasonable further progress or to attain the SO₂ NAAQS by the applicable statutory deadline. For SO₂ programs, EPA interprets "contingency measures" to mean that the State agency has a comprehensive program to identify sources of violations of the SO₂ NAAQS and to undertake an aggressive follow-up for compliance and enforcement, including expedited procedures for establishing enforceable consent agreements pending the adoption of revised SIP's. (See 57 FR 13547, April 16, 1992.)

The East Helena control strategy is based upon a dispersion modeling analysis which indicates that the Primary SO₂ NAAQS will be protected. The use of continuous emission monitoring systems will ensure that the emission limitations in the plan are not exceeded. In addition, a compliance network of ambient air monitoring stations will be maintained around the smelter at locations associated with predicted maximum concentrations. This monitoring system should quickly identify any violations of the NAAQS, if they should occur.

If violations should occur, the MDHES would immediately begin negotiations with Asarco to reach agreement on control measures to