



STATE OF MONTANA  
AIR QUALITY CONTROL  
IMPLEMENTATION PLAN

Subject: Lincoln County  
Air Pollution  
Control Program

1 concerning open burning. The Montana Clean Air Act, Title  
2 75, Chapter 3, 75-2-301 (3)(a) requires local air pollution  
3 programs to be compatible with or more stringent than state  
4 regulations as outlined in the Montana Clean Air Act, Title  
5 75, Chapter 2, MCA. Accordingly, Libby has made amendments  
6 to their Local Air Pollution Control Program - open burning  
7 chapter - to become as stringent as the states' regulation.

8 5. A copy of the amendments that are the subject of  
9 this proceeding is attached to this Order as Attachment A and  
10 by this reference is incorporated herein. Specifically, the  
11 amendments consist of: (1) revisions to Subchapter 7: Open  
12 Burning Regulations - Management of Open Burning, Sections  
13 75.1.701 to 75.1.719 to incorporate the more stringent state  
14 regulations into the local program; and (2) a comprehensive  
15 administrative correction changing the Department of Health  
16 and Environmental Sciences (DHES) referral to the Department  
17 of Environmental Quality (DEQ).

18 6. The amendments to the Libby Air Pollution  
19 Control Program were publicly heard and adopted on the  
20 following dates:

21 Libby City Council	First Reading: 10/2/95
22 Libby City Council	Final Reading: 11/20/95
23 Lincoln County Commissioners	First Reading: 9/27/95
24 Lincoln County Commissioners	Final Reading: 11/1/95
25 Public Hearing	Hearing Date: 10/25/95

26 Attachment B consists of the states' public notice and letter  
27 of repository and by this reference is incorporated herein.

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1 The Department provided a 30-day public notice for the  
2 February 2, 1996 Board hearing in accordance to 40 CFR  
3 §51.102. Specifically, the public notice included: (1) notice  
4 of the February 2, 1996 Board hearing to consider the Lincoln  
5 County Air Pollution Control Program revisions and  
6 incorporation into the Libby PM-10 SIP; and (2) notice of  
7 repository locations where documents could be viewed or  
8 copied were published on or before December 29, 1995 in the  
9 Missoulian, in Missoula, the Flathead Daily Inter Lake, in  
10 Kalispell, the Montanian, in Libby, and in the Independent  
11 Record, in Helena.

12 7. In previous Orders concerning the Libby Air Pollu-  
13 tion Control Program, the Board has found that the location,  
14 character, and extent of particular concentrations of popula-  
15 tion and air contaminant sources, and the geographic, topo-  
16 graphic and meteorological considerations involved, and com-  
17 binations of the foregoing, were such as to make impracti-  
18 cable the maintenance of appropriate levels of air quality  
19 without a local air pollution control program such as that  
20 administered by the local government. The Board reaffirms  
21 the appropriateness of these findings, as they relate to the  
22 Libby Air Pollution Control Program, as amended.

23 8. In previous Orders concerning the Libby Air Pollu-  
24 tion Control Program, the Board has found that the program  
25 provided for administrative organization, staff, financial  
26 and other resources necessary to effectively and efficiently  
27 carry out the program. The Board reaffirms the appropriate-

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1 ness of these findings as they relate to the Libby Air Pollu-  
2 tion Control Program, as amended.

3 9. In previous Orders concerning the Libby Air Pollu-  
4 tion Control Program, the Board has found that the program  
5 included the necessary provisions for enforcement by adminis-  
6 trative and judicial processes. The Board reaffirms the  
7 appropriateness of these findings as they relate to the Libby  
8 Air Pollution Control Program, as amended.

9 10. The Board finds that the amendments contained in  
10 Attachment A. are compatible with, more stringent, or more  
11 extensive than the corresponding requirements under the Mon-  
12 tana Clean Air Act, Title 75, Chapter 2, MCA, and regulations  
13 adopted thereunder.

14 11. Implementation of the Libby Air Pollution Control  
15 Program, as amended, is not intended to interfere with the  
16 retention of jurisdiction by the Department over certain  
17 sources located within the boundary of the Libby air pollu-  
18 tion control district, as required by the Board's Order of  
19 March 19, 1993.

20 12. The Department should assume and retain control  
21 over any source regulated by the Montana Clean Air Act, Title  
22 75, Chapter 2, MCA, for which Libby has not provided by ordi-  
23 nance or local law for requirements which are compatible  
24 with, more stringent, or more extensive than those imposed by  
25 the Montana Clean Air Act or regulations adopted thereunder.

26 13. The Board finds that, as Chapter of the requisite  
27 degree of authority necessary to administer the Libby Air

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1 Pollution Control Program, as amended, it is appropriate for  
2 Libby to be responsible for emergency powers as provided in  
3 Section 75-2-402, MCA, in regard to those sources and activi-  
4 ties governed by the local air pollution control program, as  
5 amended. The Department shall retain such emergency powers  
6 over all other sources.

7  
8

CONCLUSIONS OF LAW

9 1. Proper notice and an opportunity to participate in  
10 this proceeding has been provided to all interested parties.  
11 Title 2, Chapters 3 and 4, MCA, 40 CFR §51.102.

12 2. The Libby Air Pollution Control Program, including  
13 the amendments that are the subject of this application,  
14 meets the requirements set forth by statute for approval by  
15 the Board. Section 75-2-301, MCA.

16 3. The Department should assume and retain control  
17 over any source regulated by the Montana Clean Air Act, Title  
18 75, Chapter 2, MCA, for which Libby has not provided by ordi-  
19 nance or local law for requirements which are compatible  
20 with, more stringent than, or more extensive than those im-  
21 posed by the Montana Clean Air Act or regulations adopted  
22 thereunder.

23 4. Pursuant to Section 75-2-301(4), MCA, and except  
24 for the emergency powers provided for in Section 75-2-402,  
25 MCA, the Board may not delegate to Libby the authority to  
26 control the following sources of air contaminants: those that  
27 require the preparation of an environmental impact statement

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1 pursuant to Title 75, Chapter 1, Chapter 2, MCA; those that  
2 are subject to regulation under the Montana Major Facility  
3 Siting Act, Title 75, Chapter 20, MCA; and those that have  
4 the potential to emit 250 tons per year or more of any  
5 pollutant subject to regulation under the Montana Clean Air  
6 Act, Title 75, Chapter 2, MCA, including fugitive emissions,  
7 unless the authority to control the source was delegated to  
8 Libby prior to January 1, 1991.

9 5. If the Board finds that the control of a particular  
10 air pollutant source, because of its complexity or magnitude,  
11 is beyond the reasonable capability of Libby or may be more  
12 efficiently and economically performed at the state level,  
13 the Board may direct the Department to assume and retain  
14 control over that air pollutant source. Section 75-2-301(9),  
15 MCA.

16 6. The Findings of Fact contained in this Order are  
17 hereby adopted as Conclusions of Law.

18  
19 ORDER

20 1. The Board approves the Libby Air Pollution Control  
21 Program, as amended by the application in this proceeding.

22 2. The Board directs the Department of Environmental  
23 Quality to assume and retain control over those sources of  
24 air contaminants listed in Section 75-2-301(4), MCA.

25 3. Approval herein by the Board of the amendments to  
26 the Libby Air Pollution Control Program does not interfere  
27 with the retention of jurisdiction by the Department over

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1 certain sources located within the boundary of the Libby air  
2 pollution control district, as required by the Board's Order  
3 of March 19, 1993.

4 4. The Board directs the Department of Environmental  
5 Quality to assume and retain control over any source  
6 regulated by the Montana Clean Air Act, Title 75, Chapter 2,  
7 MCA, for which Libby has not provided by ordinance or local  
8 law for requirements which are compatible with, more  
9 stringent than, or more extensive than those imposed by the  
10 Montana Clean Air Act or regulations adopted thereunder.

11 5. The Board orders that Libby shall be responsible  
12 for emergency powers as provided in Section 75-2-402, MCA, in  
13 regard to those sources and activities governed by the local  
14 air pollution control program, as amended. The Department  
15 shall retain such emergency powers over all other sources.

16  
17 DATED this 15<sup>th</sup> day of February, 1996.

18 BOARD OF  
19 ENVIRONMENTAL REVIEW

20   
21 CINDY YOUNKIN,  
22 Chairperson  
23  
24  
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