

Volume II
Chapter 15

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Flathead County
Air Quality Control
Program

1 BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
2 OF THE STATE OF MONTANA

3 In the Matter of the Application)
4 of the Cities of Columbia Falls) FINDINGS,
5 and Kalispell and the County of) CONCLUSIONS
6 Flathead for Approval of) AND ORDER
7 Amendments to its Local Air)
8 Pollution Control Program)

9 Background

10 1. The Cities of Columbia Falls and Kalispell and the
11 County of Flathead (collectively referred to as Applicants)
12 have filed an application with the Board of Health and Envi-
13 ronmental Sciences (Board), seeking approval of amendments to
14 their local air pollution control program.

15 2. Pursuant to public notice, and on May 20, 1994, at
16 the Cogswell Building, Helena, Montana, the Board conducted a
17 hearing on the amendments proposed by the Applicants. At the
18 hearing, testimony on the application was presented by the
19 Applicants and the Department. An opportunity to be heard
20 was provided to all interested persons at the hearing. Based
21 upon the record in this proceeding, the Board enters the
22 following Findings of Fact, Conclusions of Law and Order.

23 Findings of Fact

24 3. On November 15, 1991, and pursuant to § 75-2-301,
25 MCA, the Board approved a joint local air pollution control
26 program for the Cities of Columbia Falls and Kalispell and
27 the County of Flathead. The Board issued a Findings of Fact,

(FINDINGS, CONCLUSIONS AND ORDER)

Replaces Pages:

Dated:

May 20, 1994

Page 2 of 10

Page 15.2.0 (2)

Volume II
Chapter 15

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Flathead County
Air Quality Control
Program

1 Conclusions of Law and Order, the contents of which it now
2 takes official notice. This local program approved by the
3 Board is known as the Flathead County Air Pollution Control
4 Program, and is currently under the direction and control of
5 the Flathead City-County Health Department.

6 4. In the application which is the subject of this
7 proceeding, the Applicants (through the FCCHD) are seeking
8 approval of amendments to the Flathead County Air Pollution
9 Control Program. A copy of the ordinances contained in the
10 Flathead County Air Pollution Control Program, as proposed to
11 be amended, is attached to this Order as Exhibit A and by
12 this reference is incorporated herein in its entirety as part
13 of this document.

14 5. The proposed amendments relate to the implementa-
15 tion of contingency measures for the particulate matter (PM-
16 10) control programs in the Kalispell and Columbia Falls Air
17 Pollution Control Districts, the incorporation of new regula-
18 tions pertaining to the open burning disposal of waste from
19 the christmas tree industry, and expansion of the boundaries
20 of the Kalispell Air Pollution Control District. The amend-
21 ments to the program are further described as follows:

22 a. Contingency measures for the Kalispell
23 and Columbia Falls Air Pollution Control Districts,
24 as required by the Federal Clean Air Act Amendments
25 of 1990. These measures will assure that further
26 reductions of PM-10 will occur if either District
27

(FINDINGS, CONCLUSIONS AND ORDER)

2

Replaces Pages:

May 20, 1994

Dated:

Page 3 of 10

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Flathead County
Air Quality Control
Program

1 fails to timely attain the PM-10 NAAQS or make
2 reasonable further progress. The measures involve
3 the use of liquid de-icer on all roads and parking
4 lots except for certain designated routes.

5 b. New rules relating to the open burning
6 disposal of waste generated by the christmas tree
7 industry. This open burning source has been re-
8 moved from the conditional open burning section of
9 the local regulations, but conditions are still
10 imposed through a permit system after public no-
11 tice.

12 c. The boundaries of the Kalispell Air Pol-
13 lution Control District are expanded to further
14 protect the PM-10 nonattainment area. The regula-
15 tions adopted in 1991 for the control of road dust
16 and related particulate matter will be enforced in
17 the expanded area.

18 6. On October 4, 1993, and after proper public notice
19 and a public hearing, the City of Columbia Falls adopted the
20 amendments to the local air pollution control program which
21 are the subject of this application before the Board.

22 7. On October 4, 1993, and after proper public notice
23 and a public hearing, the City of Kalispell adopted the
24 amendments to the local air pollution control program which
25 are the subject of this application before the Board.

26 8. On October 12, 1993, and April 4, 1994, and after
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(FINDINGS, CONCLUSIONS AND ORDER)

3

Replaces Pages:

Dated:

May 20, 1994

Page 15.2.6 (4)

Page 4 of 10

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Flathead County
Air Quality Control
Program

1 proper public notice and a public hearing, the County of
2 Flathead adopted the amendments to the local air pollution
3 control program which are the subject of this application
4 before the Board.

5 9. In the previous Order concerning approval of the
6 Flathead County Air Pollution Control Program, the Board
7 found that the location, character and extent of particular
8 concentrations of population and air contaminant sources, and
9 the geographic, topographic and meteorological considerations
10 involved, and combinations of the foregoing, were such as to
11 make impracticable the maintenance of appropriate levels of
12 air quality without an air pollution program such as that
13 proposed. The Board reaffirms the appropriateness of these
14 findings, as they relate to the Flathead County Air Pollution
15 Control Program as proposed to be amended by the current
16 application.

17 10. In the previous Order concerning approval of the
18 Flathead County Air Pollution Control Program, the Board
19 found that a local air pollution control program which in-
20 cludes the boundaries described above is an acceptable alter-
21 native to direct state administration. The Board reaffirms
22 the appropriateness of this finding, as it relates to the
23 Flathead County Air Pollution Control Program as proposed to
24 be amended by the current application.

25 11. In the previous Order concerning approval of the
26 Flathead County Air Pollution Control Program, the Board
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(FINDINGS, CONCLUSIONS AND ORDER)

4

Replaces Pages:

Dated:

May 20, 1994

Page 5 of 10

Page 15 2 6 (5)

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Flathead County
Air Quality Control
Program

1 found that the proposed local air pollution control program
2 provided for administrative organization, staff, financial
3 and other resources necessary to effectively and efficiently
4 carry out the program. The Board reaffirms the appropriate-
5 ness of these findings, as they relate to the Flathead County
6 Air Pollution Control Program as proposed to be amended by
7 the current application.

8 12. In the previous Order concerning approval of the
9 Flathead County Air Pollution Control Program, the Board
10 found that the proposed local air pollution control program
11 had been adopted into local law and included the necessary
12 provisions for enforcement by administrative and judicial
13 process. The Board reaffirms the appropriateness of these
14 findings, as they relate to the Flathead County Air Pollution
15 Control Program as proposed to be amended by the current
16 application.

17 13. The local regulations constituting the local air
18 pollution control program, as proposed to be amended, and
19 which are the subject of this proceeding, are contained in
20 Exhibit A to this Order. The Board finds that these regula-
21 tions are compatible with, more stringent, or more extensive
22 than the corresponding requirements under the Montana Clean
23 Air Act, Title 75, Chapter 2, MCA, and regulations adopted by
24 the Board thereunder.

25 14. The Department should assume and retain control
26 over any source regulated by the Montana Clean Air Act, Title
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(FINDINGS, CONCLUSIONS AND ORDER)

5

Replaces Pages:

Dated:

May 20, 1994

Page 6 of 10

Page 15.2.6 (6)

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Flathead County
Air Quality Control
Program

1 75, Chapter 2, MCA, for which the Applicants have not provid-
2 ed by ordinance or local law for requirements compatible
3 with, more stringent than, or more extensive than those im-
4 posed by the Montana Clean Air Act or regulations adopted
5 thereunder.

6 15. Implementation of the local air pollution control
7 program, as proposed to be amended in this proceeding, is not
8 intended in any way to interfere with the retention of juris-
9 diction for the Department over those sources and activities
10 not expressly subject to the Flathead County Air Pollution
11 Control Program, consistent with the Board's previous Order.
12 See, In the Matter of the Application of the Cities of Colum-
13 bia Falls and Kalispell and the County of Flathead for Ap-
14 proval of a Local Air Pollution Control Program, dated Novem-
15 ber 15, 1991, Findings, Conclusions and Order, Finding No.
16 14, Conclusion Nos. 3 and 4, Order para. Nos. 3, 4 and 5.

17 16. The Board finds that, as part of the requisite
18 degree of authority necessary to administer its proposed
19 local air pollution control program, it is appropriate for
20 the Applicants to be responsible for emergency powers as pro-
21 vided in § 75-2-402, MCA, in regard to those sources and ac-
22 tivities governed by the proposed local air pollution control
23 program. The Department shall retain such emergency powers
24 over all other sources.

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(FINDINGS, CONCLUSIONS AND ORDER)

6

Replaces Pages:

May 20, 1994

Dated:

Page 15.2.6 (7)

Page 7 of 10

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Flathead County
Air Quality Control
Program

1 Conclusions of Law

2 1. Proper notice and an opportunity to participate in
3 this proceeding has been provided to both the Department and
4 the Applicants, and the public. Title 2, Chapters 3 and 4,
5 MCA.

6 2. The Flathead County Air Pollution Control Program
7 proposed by the Applicants meets the requirements set forth
8 by statute for approval by the Board. § 75-2-301, MCA.

9 3. The Department should assume and retain control
10 over any source regulated by the Montana Clean Air Act, Title
11 75, Chapter 2, MCA, for which the Applicants have not provid-
12 ed by ordinance or local law for requirements which are at
13 least compatible with those imposed by the Montana Clean Air
14 Act or regulations adopted thereunder.

15 4. Pursuant to statute, and except for the emergency
16 powers provided for in § 75-2-402, MCA, the Board may not
17 delegate to the Applicants the authority to control the fol-
18 lowing sources of air contaminants: those that require the
19 preparation of an environmental impact statement pursuant to
20 Title 75, Chapter 1, Part 2, MCA; those that are subject to
21 regulation under the Montana Major Facility Siting Act, Title
22 75, Chapter 20, MCA; those that have the potential to emit
23 250 tons per year or more of any pollutant subject to regula-
24 tion under the Montana Clean Air Act, Title 75, Chapter 2,
25 MCA, including fugitive emissions, unless the authority to
26 control the source was delegated to the Applicants prior to
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(FINDINGS, CONCLUSIONS AND ORDER)

7

Replaces Pages:

Dated:

May 20, 1994

Page 15.2.6 (8)

Page 8 of 10

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Flathead County
Air Quality Control
Program

1 January 1, 1991. § 75-2-301(4), MCA.
2 5. If a local air pollution control program estab-
3 lished by a county encompasses all or part of a municipality,
4 the county and each municipality must approve the program
5 after public hearing. § 75-2-301(2), MCA.

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

8
9 Order

10 1. The Board approves the Flathead Air Pollution Con-
11 trol Program, as proposed to be amended by the Cities of
12 Columbia Falls and Kalispell and the County of Flathead, and
13 as contained in Exhibit A to this Order.

14 2. The Flathead Air Pollution Control Program, as
15 amended, is not approved for implementation within the limits
16 of any municipalities located within Flathead County, except
17 for the municipalities of Columbia Falls and Kalispell.

18 3. The Board directs the Department of Health and
19 Environmental Sciences to assume and retain control over
20 those sources listed in § 75-2-301(4), MCA.

21 4. The Board directs the Department of Health and
22 Environmental Sciences to assume and retain control over
23 those sources of air contaminants which are not intended to
24 be covered by the proposed local air pollution control pro-
25 gram, as described in Paragraph 15 of the Findings of Fact
26 herein.

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(FINDINGS, CONCLUSIONS AND ORDER)

8

Replaces Pages:

Dated:

May 20 1994

Page 15 2.6 (9)

Page 9 of 10

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

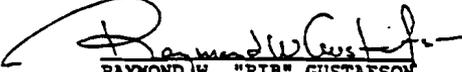
Subject: Flathead County
Air Quality Control
Program

1 5. The Board directs the Department of Health and En-
2 vironmental Sciences to assume and retain control over any
3 source regulated by the Montana Clean Air Act, Title 75,
4 Chapter 2, MCA, for which the Applicants have not provided by
5 ordinance or local law for requirements which are at least
6 compatible with those imposed by the Montana Clean Air Act or
7 regulations adopted thereunder.

8 6. The Board orders that the Applicants shall be res-
9 ponsible for emergency powers as provided in § 75-2-402, MCA,
10 in regard to those sources and activities governed by the
11 proposed local air pollution control program. The Department
12 should retain such emergency powers over all other sources.

13
14 DATED this 20th day of May, 1994.

15
16 BOARD OF HEALTH AND
17 ENVIRONMENTAL SCIENCES

18 
19 RAYMOND W. "RIB" GUSTAFSON
20 Chairman

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(FINDINGS, CONCLUSIONS AND ORDER)

9

Replaces Pages:

Dated:

May 20, 1994

Page 15.2.6 (10)

Page 10 of 10