

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Lewis and Clark Co.
Air Pollution
Control Program

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the Matter of the Application)
of the Department of Health and)
Environmental Sciences for)
Revision of the Montana State Air)
Quality Control Implementation)
Plan Relating to Control of)
Lead Emissions in the East Helena)
Nonattainment Area, Affecting the)
Following Industries: Asarco, Inc.,)
and American Chemet Corporation.)

STIPULATION OF
DEPARTMENT AND
AMERICAN CHEMET

STIPULATION

The Department of Health and Environmental Sciences
("Department") and American Chemet Corporation ("American
Chemet") hereby stipulate to the following Paragraph Nos. 1-
21, including Exhibit A as referenced below, in regard to the
above-captioned matter and present the same for consideration
and adoption by the Board of Environmental Review ("Board"):

A. BACKGROUND:

1. On October 5, 1978, the United States Environmental
Protection Agency ("EPA") promulgated a National Ambient Air
Quality Standard ("NAAQS") for lead. The standard was set at
a level of 1.5 micrograms of lead per cubic meter of air
averaged over a calendar quarter. These standards were
promulgated by EPA pursuant to Section 109 of the Federal
Clean Air Act, 42 U.S.C. 7401 et seq. ("Act").

2. The NAAQS define levels of air quality which are
determined by EPA to be necessary, with an adequate margin of

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1 safety, to protect the public health (42 U.S.C. 7409).
2 3. Ambient air quality monitoring data collected by
3 the State in population centers throughout Montana during the
4 period 1977-81 revealed that there were recorded violations
5 of the NAAQS for lead in the East Helena area.
6 4. The Act requires each state to submit an implemen-
7 tation plan for the control of each air pollutant for which a
8 national ambient air quality standard has been promulgated
9 (42 U.S.C. § 7410). Since a national standard has been pro-
10 mulgated for lead, the State of Montana is required to submit
11 a lead implementation plan for East Helena to EPA.
12 5. On September 16, 1983, the Department and Asarco
13 Incorporated (ASARCO) stipulated to a plan for the control of
14 lead emissions from the East Helena facility. The plan was
15 approved by the Board on September 16, 1983. On September
16 29, 1983, the Governor of Montana submitted the plan to EPA
17 as part of the Montana State Implementation Plan for lead
18 ("1983 lead SIP").
19 6. EPA published a notice of proposed approval of the
20 1983 lead SIP on December 29, 1983 (48 FR 57327). EPA pub-
21 lished final approval of the 1983 lead SIP on July 9, 1984
22 (49 FR 27944).
23 7. The 1983 lead SIP required ASARCO to control several
24 fugitive dust sources, including the ore storage piles and
25 roads in and out of the facility. ASARCO was also required
26 to install an air control system on the #1 blast furnace and
27 enclose the top of both blast furnaces and ventilate the

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1 exhaust to the baghouse. The Montana Highway Department was
2 required to regularly sweep Highway 12 through East Helena.
3 The City of East Helena was required to sweep all paved
4 streets south of Riggs Street between 3rd Street and Montana
5 Avenue (including Riggs and Main Streets).

6 8. As of December 31, 1986, all of the control strate-
7 gies in the 1983 lead SIP were implemented. The 1983 lead
8 SIP called for the lead NAAQS to be achieved in the East
9 Helena area within three years of EPA approval, or August 8,
10 1987. Ambient monitoring data for the fourth calendar quar-
11 ter of 1987 and the first calendar quarter of 1988 indicated
12 that the lead NAAQS was not met.

13 9. In an October 1, 1988 letter to the Governor of
14 Montana, EPA notified the State of Montana that the 1983 lead
15 SIP for East Helena was inadequate to attain and maintain the
16 lead NAAQS. The basis for EPA's finding of inadequacy was
17 that, since the development of the 1983 lead SIP, ambient air
18 quality data demonstrated that the previously approved con-
19 trol measures no longer provided for attainment of the lead
20 standard.

21 10. EPA required Montana to adopt and submit to EPA for
22 approval whatever additional control measures were necessary
23 to assure timely attainment and maintenance of the lead NAAQ-
24 S. Consequently, the Department and ASARCO have reevaluated
25 the existing lead control plan of the ASARCO East Helena
26 facility utilizing protocols, receptor and dispersion model-
27 ing techniques, and detailed emission inventories approved by

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1 the Department and EPA.
2 11. On November 6, 1991, EPA designated the East Helena
3 area as a nonattainment area for lead (56 FR 56694). The
4 designation was effective on January 6, 1992. As a result of
5 this designation, Montana was required to submit a revised
6 lead SIP that meets the requirements of the Act by July 6,
7 1993 for the East Helena lead nonattainment area. The SIP
8 must provide for attainment of the lead NAAQS as expeditious-
9 ly as practicable, but not later than January 6, 1997.
10 12. On August 2, 1993, EPA made a finding that Montana
11 had failed to submit a lead SIP by July 6, 1993 for the East
12 Helena lead nonattainment area. Pursuant to 42 U.S.C. Sec-
13 tion 7509(b), sanctions were to be imposed 18 months after
14 the finding (February 2, 1995), unless the State submitted a
15 revised SIP and EPA determined that the revised SIP was com-
16 plete within that time frame. EPA also has the option to
17 withhold air pollution grants to the State based upon the
18 State's failure to submit a revised SIP (42 U.S.C. Section
19 7405). EPA must either approve a SIP or promulgate a Federal
20 Implementation Plan no later than two years (August 2, 1995)
21 after a finding under 42 U.S.C. Section 7509 [42 U.S.C. Sec-
22 tion 7410(c)].
23 13. On February 2, 1995, EPA imposed 2:1 emission off-
24 set sanctions in the East Helena lead nonattainment area.
25 14. Utilizing a dispersion modeling analysis, American
26 Chemet and the Department have developed a emission control
27 strategy that, together with a control strategy for ASARCO,

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1 is intended to assure attainment and maintenance of the lead
2 NAAQS in the East Helena nonattainment area.

3 15. In this proceeding, the Department has filed with
4 the Board a Petition for Revision of the Montana State Air
5 Quality Control Implementation Plan, seeking a Board Order
6 approving and adopting the revised emission control strategy
7 for achieving and maintaining the lead NAAQS in the East
8 Helena nonattainment area. Specifically, the Department's
9 Petition proposed the following: that Chapter 5 of the Mon-
10 tana SIP be revised by deleting the existing control strategy
11 for the lead NAAQS in the East Helena nonattainment area;
12 that the revised lead NAAQS control strategy for East Helena
13 be adopted and incorporated into the SIP as a new Chapter 25.

14 B. BINDING EFFECT

15 16. Exhibit A, which is attached to this Stipulation
16 and incorporated herein by reference, contains emission limi-
17 tations and other conditions that, together with the control
18 strategy for ASARCO, are necessary to assure attainment and
19 maintenance of the lead NAAQS in the East Helena nonattainme-
20 nt area. American Chemet shall comply with the terms of this
21 Stipulation, the emission limitations and other conditions of
22 Exhibit A.

23 17. To the extent allowed under federal requirements,
24 minor and clerical corrections may be made to this Stipula-
25 tion or Exhibit A by mutual agreement of the parties, without
26 the necessity for a formal revision of the East Helena lead
27 SIP.

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1 18. The parties agree that the requirements of this
2 Stipulation and Exhibit A will become effective upon the
3 issuance of an Order by the Board in this proceeding, except
4 as otherwise provided in Exhibit A. All current reporting
5 requirements and emission limitations and conditions shall
6 remain in effect until such effective dates. Prior to the
7 effective date of a requirement specified herein, American
8 Chemet must obtain all permits necessary to implement that
9 requirement.

10 19. It is the intent of the parties that, after adop-
11 tion and incorporation by Board Order, the lead NAAQS control
12 strategy for American Chemet shall be submitted to EPA for
13 review and approval as part of the revised lead SIP for the
14 East Helena area. The requirements of the lead NAAQS control
15 strategy for American Chemet shall supersede any less strin-
16 gent corresponding conditions in any existing permit current-
17 ly issued to American Chemet.

18 ~~20. The requirements of this Stipulation and Exhibit A~~
19 ~~may be subject to modification when sufficient grounds exist.~~
20 ~~Sufficient grounds include, but are not limited to, the fol-~~
21 ~~lowing:~~

22 ~~(a) an EPA determination that the submitted plan is~~
23 ~~incomplete;~~

24 ~~(b) an EPA disapproval, either partial or complete, of~~
25 ~~the submitted plan;~~

26 ~~(c) an EPA conditional approval of the submitted plan;~~

27 ~~(d) a determination by EPA that this plan has failed to~~

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1 ~~achieve or maintain the NAAQS; or~~
2 ~~(a) a demonstration by American Chemet, utilizing De-~~
3 ~~partment and EPA approved dispersion modeling techniques,~~
4 ~~that the NAAQS can be achieved and maintained by implementing~~
5 ~~an alternative control plan.~~
6 ~~Modifications of the requirements of this Stipulation or~~
7 ~~Exhibit A that necessitate a revision of the State Implemen-~~
8 ~~tation Plan (SIP) shall not be effective except upon issuance~~
9 ~~of a Board order adopting the modifications, after proper~~
10 ~~notice and public hearing, and approval by EPA. The require-~~
11 ~~ments of this Stipulation may also be modified by equivalent~~
12 ~~alternative requirements implemented through the state oper-~~
13 ~~ating permit program under authorization of Title V of the~~
14 ~~federal Clean Air Act. The procedures for implementing equi-~~
15 ~~valent alternative requirements must meet federal require-~~
16 ~~ments for modification of SIPs through state operating per-~~
17 ~~mits. Equivalent alternative requirements may be adopted~~
18 ~~only after a demonstration that their adoption will assure~~
19 ~~attainment and maintenance of the NAAQS. American Chemet~~
20 ~~does not waive and expressly reserves its right to contest~~
21 ~~any Department, Board, or federal action which, without Amer-~~
22 ~~ican Chemet's written consent, modifies the requirements of~~
23 ~~this Stipulation and Exhibit A.~~
24 21. Accordingly, the parties agree that the Board
25 shall issue an order adopting the requirements of this Stipu-
26 lation and Exhibit A. Upon adoption in a Board Order, such
27 requirements shall be enforceable by the Department, subject

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1 to the effective dates set forth in Exhibit A.

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American Chemet Corporation

Montana Department of
Health and Environmental
Sciences

By [Signature]

By [Signature]
Robert J. Robinson
Director

By _____
Attorney

By [Signature]
Attorney

Date 6/30/95

Date 6/30/95

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