

Volume IV
Chapter 56

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Yellowstone County
Air Pollution
Control Program

56.9.3.21 JUNE 12, 1998 ORDER OF THE BOARD OF ENVIRONMENTAL REVIEW
CONCERNING MONTANA SULPHUR & CHEMICAL COMPANY, BILLINGS,
MT.

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AIR QUALITY CONTROL
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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 Sulfur Dioxide Emissions
in the Billings/Laurel Area, Affecting
the Following Industries: Cenex, Inc.
(Laurel); Conoco, Inc.; Exxon Company,
USA; Montana Power Company, (J.E.
Corette and F. Bird Plants); Montana
Sulphur and Chemical Company; The
Western Sugar Company; and Yellowstone
Energy Limited Partnership.

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER ADOPTING
STIPULATION OF
DEPARTMENT AND
MONTANA SULPHUR AND
CHEMICAL COMPANY

The Department of Environmental Quality (Department) has requested an Order from the Board of Environmental Review (Board) adopting a sulfur dioxide control plan for Montana Sulphur and Chemical Company (MSCC). The control plan, together with the control plans for the other above-captioned industries, is intended to attain and maintain the SO₂ National Ambient Air Quality Standards ("NAAQS") in the Billings/Laurel Area.

Pursuant to public notice, and on June 12, 1998, the Board conducted a hearing in Helena, Montana on the proposed revisions to the control plans. At the hearing an opportunity for comment was provided to the Department, the affected industries, and interested members of the public. Based on the record in this proceeding, the Board enters the following Findings of Fact, Conclusions of Law and Order in regard to this matter:

FINDINGS OF FACT

1. The above-captioned matter was initiated in 1994 by a petition of the Department of Health and Environmental Sciences. The petition requested an Order from the Board of Health and Environmental Sciences adopting sulfur dioxide control plans for the seven named Billings/Laurel industries. The sulfur dioxide control plans were developed in response to a March 4, 1993, letter from the U.S. Environmental Protection Agency (EPA) calling for revisions to Montana's sulfur dioxide State Implementation Plan (SIP). The Board of Health and Environmental Sciences approved six of the control plans

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1 in May of 1995. This Board approved the seventh plan (with corresponding revisions to
2 the other plans) in August of 1996. On August 27, 1996, Montana submitted the plans to
3 EPA as a SIP revision. Prior to EPA action on the plans, minor adjustments to the Exxon
4 plan were approved by this Board in February of 1997.

5 2. In February and June of 1997, without issuing a formal approval or
6 disapproval of the initial control plans, EPA notified the Department of several areas in
7 which EPA had questions about the approvability of the SIP. After discussions with EPA
8 and the affected industries, the Department, in January of 1998, committed to make
9 revisions to the plans to address most of EPA's concerns. Negotiations between the
10 Department and the affected Billings/Laurel industries have resulted in the set of revised
11 control plans currently before this Board.

12 3. The sulfur dioxide control plan for MSCC is contained in the Stipulation,
13 Exhibit A, and Attachment(s) that are attached to this Order and are incorporated herein by
14 reference. The Board has examined the Findings of the Stipulation and hereby ratifies and
15 adopts them as the Board's Findings. In particular, the Board ratifies and adopts the
16 Department's approval of a fluid modeling demonstration of good engineering practice
17 (GEP) stack height for the MSCC 100-meter SRU stack, performed by CPP, Inc. of Fort
18 Collins, Colorado, and the Department's determination that such approved fluid modeling
19 demonstrated that a height of 97.5 meters is justified and creditable as good engineering
20 practice height for that stack in accordance with the requirements of 40 CFR Part 51,
21 Subpart F, Section 51.100, including specifically paragraphs (ii), (jj), and (kk)(1) thereof,
22 GEP guidelines, and the corresponding Montana requirements governing GEP. The Board
23 also hereby ratifies and adopts the Department's determination in that Stipulation and
24 attachments that MSCC shall receive credit for such height in the setting of emission
25 limitations. Further, the Board also hereby ratifies and adopts the Department's
26 determination that the recognition of variable buoyancy flux and/or the emissions shifting
27 in setting emission limits as contemplated and approved by parties in that Stipulation is not

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1 a prohibited or unlawful dispersion technique for MSCC and the Board finds that MSCC is
2 entitled to and shall receive emission limitation credit recognizing such techniques.

3 4. It is the intent of the parties that the attached emission control plan for
4 MSCC, after adoption and incorporation by Board Order, shall be submitted to the EPA for
5 review and approval as part of the revised SO₂ SIP for the Billings/Laurel area.

6 5. The Department has issued public notice of the proposed revisions to the
7 sulfur dioxide control plans. Notice was published, at least 30 days prior to the date of the
8 hearing in this matter, by prominent advertisement in the affected area. A copy of the
9 proposed revisions was made available for public inspection.

10

11 CONCLUSIONS OF LAW

12 Based on the foregoing Findings of Fact, the Board hereby enters the following
13 Conclusions of Law:

14 1. The public has been provided with appropriate notice and an opportunity to
15 participate in this matter. Title 2, chapters 3 and 4, MCA. The federal requirements for
16 notice and hearing prior to adoption and submittal of SIP revisions have been met. 40 CFR
17 §51.102.

18 2. The Department is required to prepare and develop a comprehensive plan
19 for the prevention, abatement, and control of air pollution in this state. Section 75-2-
20 112(2)(c), MCA. Further, under ARM 17.8.401(2)(c), the Department is the agency to
21 determine and approve a fluid model or a field study for the purpose of ensuring that
22 emissions from a stack do not result in excessive concentrations of any air pollutant as a
23 result of atmospheric downwash, wakes, or eddy effects created by the source itself, or
24 nearby structures or nearby terrain features. See also 40 CFR §51.100(ii)(3). This Board
25 hereby ratifies and adopts the Department's approval of the fluid model study above
26 referred to in the findings of fact.

27 3. The Board has authority to issue orders necessary to effectuate the purposes

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- 1 of Title 75, Chapter 2, MCA. Section 75-2-111(3), MCA.
2 4. A Board Order adopting the attached Stipulation, Exhibit A, and
3 Attachment(s) is necessary to comply with the March 4, 1993, EPA request that the
4 Billings/Laurel SIP be revised.
5 5. All Findings of Fact are hereby incorporated in these Conclusions of Law.
6
7

8 **ORDER**

9 Based on the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY
10 ORDERED THAT:

- 11 1. The sulfur dioxide control plan for MSCC set forth in the attached
12 Stipulation, Exhibit A, and Attachment(s) is adopted by the Board and incorporated herein
13 as part of this Order.
14 2. This Order shall be enforceable by the Department.
15 3. Modifications of this Order shall only be by initiation of the Board or by
16 petition to the Board and the issuance of a subsequent order revising this Order.

17 DATED this 12th day of June, 1998

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19 By: 
20 CINDY E. YOUNKIN
21 Chairperson
22 Board of Environmental Review
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