

Volume IV
Chapter 56

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Yellowstone County
Air Pollution
Control Program

56.9.3.19 JUNE 12, 1998 ORDER OF THE BOARD OF ENVIRONMENTAL REVIEW
CONCERNING EXXON COMPANY, U.S.A., BILLINGS REFINERY, BILLINGS,
MT.

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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
EXXON

The Department of Environmental Quality (Department) has requested an Order from the Board of Environmental Review (Board) adopting a sulfur dioxide control plan for Exxon. 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 Exxon 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 FCC CO Boiler stack, performed by Colorado State University,
18 and the Department's determination that such approved fluid modeling demonstrated that a
19 height of 76.7 meters is justified and creditable as good engineering practice height for that
20 stack in accordance with the requirements of 40 CFR Part 51, Subpart F, Section 51.100,
21 including specifically paragraphs (ii), (jj), and (kk)(2) thereof, GEP guidelines, and the
22 corresponding Montana requirements governing GEP. The Board also hereby ratifies and
23 adopts the Department's determination in that Stipulation and attachments that Exxon shall
24 receive credit for such height in the setting of emission limitations. Further, the Board also
25 hereby ratifies and adopts the Department's determination that the recognition of an
26 emission limitation for the FCC CO Boiler Stack that is based on the Fresh Feed Rate to
27 the FCC Reactor as contemplated and approved by the parties in that Stipulation is not a

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

3 4. Exhibit A of the attached emission control plan for Exxon contains language
4 that has been lined out and initialed by both parties. The deleted language consists of a
5 compliance determination method for the Coker CO Boiler when Coker Unit flue gases are
6 being burned in the Boiler. According to the Department, data received after public notice
7 in this matter raised a question about the accuracy of the compliance determination
8 method. The parties request that the Board delete the method from the current plan,
9 conditioned upon the parties' proceeding immediately either to remedy the defects in the
10 method or to develop an acceptable substitute. The parties have agreed to appear before
11 this Board at its next meeting with the result of their efforts to develop a compliance
12 determination method for the Coker CO Boiler.

13 5. EPA has indicated that the Exxon emission control plan is deficient for
14 federal purposes without an accurate compliance determination method for the Coker CO
15 Boiler. EPA indicated that deletion of the method from the attached plan would not, by
16 itself, be a basis for EPA disapproval of the plan if the parties develop an acceptable
17 compliance method for submittal to EPA after the next Board meeting.

18 6. It is the intent of the parties that the attached emission control plan for
19 Exxon, after adoption and incorporation by Board Order, shall be submitted to the EPA for
20 review and approval as part of the revised SO₂ SIP for the Billings/Laurel area, subject to
21 revision as provided in the preceding paragraph.

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

26 CONCLUSIONS OF LAW

27 Based on the foregoing Findings of Fact, the Board hereby enters the following

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1 Conclusions of Law:

2 1. The public has been provided with appropriate notice and an opportunity to
3 participate in this matter. Title 2, chapters 3 and 4, MCA. The federal requirements for
4 notice and hearing prior to adoption and submittal of SIP revisions have been met. 40 CFR
5 §51.102.

6 2. The Department is required to prepare and develop a comprehensive plan
7 for the prevention, abatement, and control of air pollution in this state. Section 75-2-
8 112(2)(c), MCA. Further, under ARM 17.8.401(2)(c), the Department is the agency to
9 determine and approve a fluid model or a field study for the purpose of ensuring that
10 emissions from a stack do not result in excessive concentrations of any air pollutant as a
11 result of atmospheric downwash, wakes, or eddy effects created by the source itself, or
12 nearby structures or nearby terrain features. See also 40 CFR §51.100(ii)(3). This Board
13 hereby ratifies and adopts the Department's approval of the fluid model study above
14 referred to in the findings of fact.

15 3. The Board has authority to issue orders necessary to effectuate the purposes
16 of Title 75, Chapter 2, MCA. Section 75-2-111(3), MCA.

17 4. A Board Order adopting the attached Stipulation, Exhibit A, and
18 Attachment(s) is necessary to comply with the March 4, 1993, EPA request that the
19 Billings/Laurel SIP be revised.

20 5. All Findings of Fact are hereby incorporated in these Conclusions of Law.

21
22 **ORDER**

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

25 1. The sulfur dioxide control plan for Exxon set forth in the attached
26 Stipulation, Exhibit A, and Attachment(s) is adopted by the Board and incorporated herein
27 as part of this Order. The stricken language in the attached Exhibit A pertaining to a

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compliance determination method for the Coker CO Boiler shall be deleted from the plan.
The parties are directed to appear before this Board at its next meeting with the results of their efforts to develop an acceptable compliance determination method for the Coker CO Boiler. In order for the Board to act on the matter at its next meeting, the public must be given appropriate notice of any proposed compliance determination method.

2. This Order shall be enforceable by the Department.

3. Modifications of this Order shall only be by initiation of the Board or by petition to the Board and the issuance of a subsequent order revising this Order.

DATED this 12th day of June, 1998

By: 
CINDY E. YOUNKIN
Chairperson
Board of Environmental Review

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