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Chapter 15

STATE OF MONTANA  
AIR QUALITY CONTROL  
IMPLEMENTATION PLAN

Subject: Flathead County  
Air Quality Control  
Program

APPENDIX A

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

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In the Matter of the Application )  
of the Cities of Columbia Falls )  
and Kalispell and the County of )  
Flathead for Approval of a Local )  
Air Pollution Control Program )  
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This Stipulation is made and entered into by and between the Cities of Columbia Falls and Kalispell and the County of Flathead (collectively Flathead Governments), and the Montana Department of Health and Environmental Sciences (Department). Accordingly, the parties submit this Stipulation to the Board of Health and Environmental Sciences (Board) for its review and approval, and consideration as part of the application of the above-named governmental entities for approval of a local air pollution control program.

1. Section 75-2-301, MCA, provides for the establishment of local air pollution control programs.

2. On October 21, 1991, the City of Columbia Falls passed Resolution 925 implementing a local air pollution control program for the area encompassed within the city limits. The regulations adopted by Columbia Falls contain requirements for the control of PM-10 emissions from both fugitive dust (from roads, parking lots, construction and demolition, street sweeping and flushing, and land clearing), and wood combustion (from open burning). In

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addition, the adopted regulations include a voluntary curtailment program for solid fuel burning devices. Administration and implementation of the adopted local program is to be performed by the Flathead City-County Board of Health and the Flathead City-County Health Department.

3. On September 16, 1991, and after a public hearing, the City of Kalispell adopted regulations implementing a local air pollution control program for the area encompassed within the city limits. The regulations adopted by Kalispell contain requirements for the control of PM-10 emissions from both fugitive dust (from roads, parking lots, construction and demolition, street sweeping and flushing, and land clearing), and wood combustion (from open burning). In addition, the adopted regulations include a voluntary curtailment program for solid fuel burning devices. Administration and implementation of the adopted local program is to be performed by the Flathead City-County Board of Health and the Flathead City-County Health Department.

4. On October 3, 1991, and after a public hearing, the County of Flathead adopted regulations implementing a local air pollution control program for the area encompassed within the county boundaries. The regulations implementing a local air pollution control program for the area encompassed within the county boundaries. The regulations adopted by the County of Flathead contain both requirements for the control of PM-10 emissions from wood combustion (from open burning), and a voluntary curtailment program for

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solid fuel burning devices. Administration and implementation of the adopted local program is to be performed by the Flathead City-County Board of Health and the Flathead City-County Health Department.

5. The regulations adopted by the Flathead Governments are collectively known as the Flathead County Air Pollution Control Program. Aside from the municipalities of Columbia Falls and Kalispell, no other municipalities within Flathead County have approved the proposed program.

6. The Flathead Governments have filed an application with the Board, seeking approval of the proposed Flathead County Air Pollution Control Program, pursuant to Section 75-2-301, MCA. The Department has engaged in a thorough review of the application submittal, and several meetings have been held between the Department and the Flathead Governments.

7. Based upon the Department's review of the proposed Flathead County Air Pollution Control Program, the parties to this Stipulation agree as follows:

a. the location, character and extent of particular concentrations of population and air contaminant sources, and the geographic, topographic and meteorological considerations involved, and combinations of the foregoing, are such as to make impracticable the maintenance of appropriate levels of air quality without an air pollution program such as that proposed, and whose

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territorial boundaries include the entire County of Flathead, including the Cities of Columbia Falls and Kalispell, but excluding Whitefish;

b. a local air pollution control program which includes the boundaries described above is an acceptable alternative to direct State administration;

c. the proposed local air pollution control program provides for administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out the program;

d. the proposed local air pollution control program has been adopted into local law and includes the necessary provisions for enforcement by administrative and judicial process;

e. the local regulations constituting the proposed local air pollution control program which is the subject of this proceeding, are compatible with, more stringent, or more extensive than the corresponding requirements under the Montana Clean Air Act, Title 75, Chapter 2, MCA, and regulations adopted by the Board thereunder.

8. The parties recognize and agree that as to any source which is regulated under the Montana Clean Air Act, Title 75, Chapter 2, MCA, if the Flathead Governments have not provided by ordinance or local law for requirements compatible with, more stringent than, or more extensive than

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those imposed by the Board concerning that source, than regulation of that source should be retained for the Department.

9. Under section 75-2-301(4), MCA, there are several types of sources for which the Board may not delegate regulatory authority to the Flathead Governments. Accordingly, the parties to this Stipulation agree that the Department should assume and retain full control of these sources.

10. As described above, the Flathead Governments are only seeking authority to operate a local air pollution control program which regulates certain defined activities (concerning roads, parking lots, construction and demolition, land clearing, open burning and solid fuel burning device) in discrete geographical areas (i.e., city limits and county boundaries). Except to the extent that the proposed local air pollution control program is expressly applicable, the Flathead Governments are not seeking authority to regulate any stationary source which is subject to regulation by the Department under ARM 16.8.1102. Accordingly, the parties to this Stipulation agree that the Department should assume and retain full control over those sources which are not intended to be covered by the proposed local air pollution control program, as described above.

11. The parties to this Stipulation agree that the Flathead Governments shall be responsible for emergency powers as provided in Section 75-2-402, MCA in regard to

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those sources and activities governed by the proposed local  
air pollution control program, and the Department shall  
retain such emergency powers over all other sources.

MONTANA DEPARTMENT HEALTH AND ENVIRONMENTAL SCIENCES	CITY OF COLUMBIA FALLS
BY: <u>Dennis Iverson</u> DENNIS IVERSON Director	BY: <u>Edwin H. Toren</u> EDWIN H. TOREN Mayor
DATE: <u>11/15/91</u>	DATE: <u>11-12-91</u>

CITY OF KALISPELL	COUNTY OF FLATHEAD
BY: <u>Douglas D. Rauthe</u> DOUGLAS D. RAUTHE Mayor	BY: <u>Mary E. Adkins</u> MARY E. ADKINS Chairperson, Flathead County Commissioners
DATE: <u>11/19/91</u>	DATE: <u>11/14/91</u>

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