

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
JANUARY 26, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Monday, January 26, 1981, at 12:30 p.m. with CHAIRMAN DENNIS IVERSON presiding and all other members present.

CHAIRMAN IVERSON opened to a hearing on HB 373.

HOUSE BILL 373 REP. DANIEL KEMMIS, chief sponsor, presented the bill which would create the position of permit facilitator in the governor's office. It would establish an information center and would encourage federal and local agencies to help with obtaining permits. Application for permits in the natural resources area is complex and people need help in obtaining the permits. May be able to use some staff in the governor's office or could possibly need to hire two additional people.

RON PHOENIX, staff for the Environmental Quality Council, gave detailed background information on the bill. It is attached as Exhibit 1.

JOHN NORTH, an attorney for the Department of State Lands, spoke in support of the bill saying his department tries to coordinate as much as possible. They try to tell people what will be expected from other agencies but it is not always possible. There is a need for someone who is expert in this area to coordinate. MR. NORTH emphasized this would be a voluntary program and not mandatory. Attached as Exhibit 2 is a list of amendments the Department of State Lands and the governor's office would like included in the bill.

There were no OPPONENTS.

REP. KEMMIS closed the bill saying the E. Q. C. would like to have a more detailed bill, but they have settled on the permit facilitator.

During questions from the committee, REP ASAY asked if programs in the other states are more complicated than the one proposed for Montana. The answer was that some are and some are not.

The hearing on HB 373 closed and the one on SB 62 opened.

SENATE BILL 62 SENATOR JOSEPH MAZUREK, sponsor, presented the bill that would provide that fines paid to the Department of State Lands be credited to the general fund. The current system forces the department to estimate the amount of fines they will collect in a year and that is very difficult to do. With this bill, the money would go into the general fund and would eliminate the earmarking of revenues. This bill does not deal with bond forfeitures.

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JIM MOCKLER of the Montana Coal Council spoke as a proponent.

JOHN NORTH, an attorney for the Department of State Lands, also supported the bill. The department does not collect fines to cover expenses and would prefer to have a system that does not imply that it does.

There were no OPPONENTS.

During questions from the committee, REP. KEEDY asked what happens to the bond forfeitures. JOHN OSBORNE of the Department of State Lands explained that the funds go to pay for land reclamation or eventually are turned back to the industry.

The hearing on SB 62 closed.

The hearing on HB 334 opened in Room 104.

HOUSE BILL 334 REP. JOE KANDUCH, SR., chief sponsor, presented the bill which would require legislative approval before state ambient air quality standards or emission standards more stringent than federal standards may become effective. See Exhibit 1.

REP. KANDUCH stated he had no objections to amendments to this bill provided it does not change the intent of the bill.

CHAIRMAN IVERSON stated that proponents and opponents would each have 35 minutes for testimony.

PROPOSERS J. D. MOCKLER of the Montana Coal Council offered some amendments which are attached as Exhibit 2. He felt that with legislature control the people of the state have more to say about the issue.

JAMES SIEVERSON of the ASARCO plant at East Helena told the committee that the smelter employs 300 people with a payroll of 7 million dollars annually. There are only six lead smelters left in the country. In the brief history of his company, MR. SIEVERSON said they have met the standards required by law. He feels that the current federal standards are stringent enough and that it is not necessary to have the proposed state ones. ASARCO has had a variance from the state.

BILL HAND, Executive Secretary of the Montana Mining Association, said companies cannot endure living under heavy compliance rules. Most provide for reasonable standards and comply with design of the plants.

PETER JACKSON of the Western Environmental Trade Association felt the whole issue has deteriorated into politics. He would like to see all parties work together to have something everyone could live with. He has worked with air and water rules and is now starting to work with hazardous waste rules. See Exhibit 3.

JOHN BRAUNBECK of Energy Services Company and Intermountain Oil Marketers Association supported the bill.

JOE ROSSMAN of the Teamsters Union supported the bill stating that members of his union are worried about their jobs. He felt the legislature is more represented by the people than the Board of Health can be.

KEN HOOVENTOL of the Montana Trade Association supported the bill saying this is an issue for the legislature to handle.

GEORGE JOHNSTON, representing ASARCO, said the customers must pay for pollution equipment. When companies such as his install equipment, the bill must be paid by someone. His company wants to remain in business.

JANELLE FALLAN of the Montana Chamber of Commerce spoke in favor of the bill asking the committee if the legislature would automatically go for less than the Board of Health.

DON ALLEN of the Montana Petroleum Association felt that the standards need not be more stringent than federal requirements. The Board of Health has looked at the standards for a long time and has largely ignored studies made recently.

BOB QUINN of the Montana Power Company supported the bill.

R. V. TILMAN of the Stauffer Chemical Plant, Silver Bow, suggested that the laws be reviewed by the legislature. The legislature is much closer to the people than the Board of Health and know what is best for the state.

OPPONENTS JOHN BARTLETT of the Department of Environmental Sciences said if the legislature rather than the Board of Health oversees the standards, there would long delays waiting for the legislature to convene.

DOUG HART of Red Lodge spoke in opposition. Hearings were held and issue thoroughly discussed by Montanans. It would be a waste of taxpayer money to throw out all that has been

accomplished and have the legislature hear everything that has already been done.

REP. VERNER BERTELSEN, citizen, said he would not be in opposition of this bill if 1) Montana has an irresponsible Board of Health; 2) the legislature was in full session all of the time; 3) the air quality in Montana is not any difference than others in the country; 4) Montanans are willing to accept lower standards than we have; or, 5) that air quality should be considered by the political arena. He therefore opposed the bill.

BILL MURPHY, a rancher in the Garrison area, was concerned about the floride problem. Wanted to be on record opposing the bill.

BOB REAM, Northern Plains Resource Council, spoke in opposition. See Exhibit 4.

TERRY MURPHY representing the Montana Farmers Union said his organization opposes this bill. Several years ago the Board of Health was empowered to do what they have done. It is what is best for Montana.

KAREN ZACKHEIM of Twin Bridges opposes the bill on the basis of her studies regarding air born floride. Felt the legislature does not have time to study the materials the Board of Health studied before adopting the standards. Industry had ample opportunity to have its say before the standards were adopted. The issue should not be a political football.

RICHARD STEFFEL spoke in opposition to HB 334. See Exhibit 5.

ART PETERSON, a rancher in the Butte-Anaconda area, said he has had damages in the past with floride. Felt the Board of Health is more responsive than the legislature could be. The company has been fair in paying for damages but he feels he must keep track of the damage in the future also.

RICHARD THIELTGES of Chester spoke in opposition. See Exhibit 6.

JOAN MILES presented testimony on behalf of PHILIP TOURANGEAU. See Exhibit 7. What avenue does a person have to follow if the standards are lowered. Permits are issued one by one. The legislature would actually have to approve on each one.

LINDA ANDERSON of the League of Women Voters spoke against the bill. See Exhibit 8.

RITA SHEEHY, a former member of the Board of Health, testified in opposition of this bill. She read all of the testimony carefully before deciding on the standards. How carefully could the legislature study these issues.

Those present and stating opposition also included DON SNOW, E.I.C., MARVIN GILL from Garrison, and MICHAEL DAHLEM, representing the Associated Students of Montana. Additional written testimony is attached as Exhibit 9 from HAL ROBBINS, Chief, Air Quality Bureau.

REP. KANDUCH closed on the bill. He said if a matter became so urgent that it could not wait for the legislature to convene, a special session could be called. He is only asking that the legislature be able to speak for its people. He would want the legislature to make that final decision. Felt that the E. Q. C. has driven the Anaconda Company out of the State of Montana and inferred that REP. BERTELSEN as part of that council was part of it.

REP. BERTELSEN objected strenuously to the parts of REP. KANDUCH'S testimony regarding REP. BERTELSEN'S honor and motives as a member of the E. Q. C.

REP. NORDTVEDT asked if the standards should be the same for Montana and New Jersey? For Silver Bow and Gallatin counties? Who should pay for the lead used by consumers?

MR. JOHNSTON said the consumer bears the cost.

REP. NORDTVEDT asked how many people use wood burning stoves and would they be willing to give them up? MR. STEFFEL said he helped to conduct a survey which indicated 60% of the people in the Missoula area who use stoves agreed they would shut them down if necessary.

REP. QUILICI asked MR. BARTLETT if in setting the standards, it was a unanimous decision. Answer was not on the floride issue. REP. QUILICI asked if it was true that the Board set floride standards at 20 parts per million. The answer was yes.

REP. HUENNEKENS asked if a change was needed, how long would it take to go through the whole process. The answer was six months as an outside time limit. The hours vary because of the type of pollutant. Would take between 25 and 50 hours just to read the material available.

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REP. QUILICI asked MR. TILMAN of the Stauffer Chemical Plant what would happen if he couldn't get a stay on the 20 parts per million. The answer was that the company could have filed a suit against the state. Then, the plant would have to be shut down if still in violation.

REP. QUILICI asked if the technology is available to bring it down to 20 parts per million. The answer was no.

The hearing and meeting adjourned at 2:30 p.m.

Respectfully submitted,


DENNIS IVERSON, CHAIRMAN

Ellen Engstedt, Secretary

HOUSE NATURAL RESOURCES COMMITTEE

Date 9 /26/81

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL

HB 334

Date 9/26/81

KANDUCH

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
George R. Johnston	Helena	ASARCO	✓	
Peter Jackson	Helena	WETA	✓	
J. S. Jensen	Helena HELENA	ASARCO	✓	
Richard Steffert	Missoula	self		✓
Richard Thielges	Chesley	self		✓
Michael Anderson	Helena	Lodge of Women Voters		✓
Karen Zachheim	Twin Bridges	self		✓
Art Peterson	Anacardor	self		
Jim Murphy	Mt. Falls	Mont. Farmer Union		✓
John Beaumock	Helena	Energy Serv. Co.	✓	
Don Snow	Helena	EIC		✓
Van Hoover, Jr.	Great Falls	Mt. Snow mobilization	✓	
Don Allen	Helena	Mt. Patrolman Assn.	—	
Bill Tourangeau	Missoula			✓
Phil Tawney	Helena	W. Democratic Party		✓
W. D. Mockler	"	Mt. Coal Council	✓	
Bob Roam	Missoula	NPRC		✓
Doug Hart	Red Lodge	self		✓
Bill Hand	Helena	Mt. Mng	✓	
Joe Brown	Butte	Transistors	✓	
R. V. Wilman	Butte	Stauffer	✓	
John D. Adams	Missoula	self		✓
Bob Quinn	Helena	Mont. Pwr. Co.	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE NATURAL RESOURCES COMMITTEE

ILL HB 334

Date 1/26/81

INSOR KANDUCH

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



STATE OF MONTANA
ENVIRONMENTAL QUALITY COUNCIL
CAPITOL STATION
Helena, Montana 59601

Telephone (406) 449-3742

Terrence D. Carmody, Executive Director

ON THE STAFF OF THE DIRECTOR
Sergeant at Arms: Representative
C. Gary Treu, State Warden

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SEPTEMBER 4, 1980

TO: ENVIRONMENTAL QUALITY COUNCIL MEMBERS

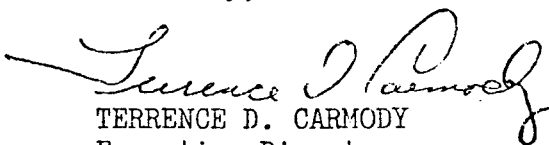
RE: HJR-60 - COORDINATION OF PERMIT PROCEDURES

Enclosed are the findings and recommendations of House Joint Resolution 60 - Coordination of Permit Procedures.

After your consideration and approval, the material will be presented to the leadership of the 47th Legislature.

Would you please review this work and present your comments at the September 16th Environmental Quality Council meeting?

Sincerely,


TERRENCE D. CARMODY
Executive Director

TDC:es

Enclosure

HJR-60
COORDINATION OF PERMIT PROCEDURES

MONTANA STATE LEGISLATURE
ENVIRONMENTAL QUALITY COUNCIL

STATE CAPITOL
HELENA, MONTANA

REPRESENTATIVE DENNIS G. NATHE
CHAIRMAN

TERRENCE D. CARMODY
EXECUTIVE DIRECTOR

SEPTEMBER 16, 1980

RON J. FENEX

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BACKGROUND

PERMIT COORDINATION In the last few years, various programs for coordinating permit procedures have been established in several states. In 1978, the Governor's Committee for Balanced Growth drafted a Coordination of Permit Procedures Act (COPPA) which would similarly unify permit processing in Montana. This proposal was prefiled as part of the Governor's package of legislation in the 46th session. However, the proposal did not meet the introduction deadline and was subsequently translated into HJR-60. The Governor's Committee thus initiated current efforts for coordinating permit review procedures.

HJR-60

PURPOSE AND DIRECTION The Montana Legislature, through HJR-60, assigned the Environmental Quality Council (EQC) the study of coordination procedures. The expressed purpose of the resolution was the coordination of permit procedures for projects contemplating the use of the state's natural resources. The legislature directed the council to prepare recommendations for the coordination of such procedures for the benefit of the applicant, the reviewing agencies, and members of the public; and report its findings and recommendations to the regular session of the 47th legislature.

THRESHOLD The legislature, in its resolution, directed that the following threshold be addressed:

- (1) provide opportunity to obtain information,
- (2) provide opportunity to present views,
- (3) improve communication and understanding,
- (4) reduce duplicative paperwork,
- (5) unify permit procedures,

- (6) provide a greater degree of certainty of permit requirements, and
- (7) establish a relatively stable time frame.

The following is a summary (and findings) of the work pursuant to HJR-60. Material relevant to coordination cited in this summary is appended.

PRELIMINARY WORK

GENERAL CONCEPTS The Environmental Quality Council staff commenced preliminary work on the resolution by gathering materials, studying pertinent laws, and researching reviews and experiences of other states. Certain general concepts, currently not formal elements of Montana's permit review procedures, emerged from this study. These concepts included master applications, informal hearings, conceptual reviews, and scoping techniques. State agencies have however, recently adopted a number of these procedures on an informal basis.

COMPLEXITIES Considerable inherent complexities, problems, and pitfalls also surfaced. Paramount among these are divergent philosophies, fragmented regulation, and federal involvement. Given the experiences of other states, and local political realities, it became apparent early in the investigation that achieving a concensus for a program for Montana would be difficult. Further, these drawbacks would require considerable attention from all those affected, and resolution of problems was essential in advance of the 1981 session.

STRATEGY To aid in overcoming these problems, a strategy of directly involving legislators, state agencies, applicants, and the public was developed. The general concepts, complexities, and problems were presented to Environmental Quality Council members in September of 1979. The expressed purpose of the resolution and the seven concerns (threshold) provided the primary guidelines for this presentation.

FEEDBACK The staff then received council direction to circulate the material to agencies, legislators, citizen's groups, and business interests--300 in all. The mailing was intended to encourage involvement, identify specific concerns, solicit input, and avoid or mitigate controversy. This circulation generated rather scant feedback, and more importantly, very few areas of common agreement emerged. Comment from legislators, state agencies, and developers was conspicuously missing. It is plausible to assume, however, that those affected or concerned reserved comment until conceptual details were revealed.

An expected amount of comment advocated substantive changes in permitting statutes rather than addressing clearly procedural problems. However, the intent of the resolution and research suggested a coordination program in which agencies retain present substantive responsibility.

THE WORKING PAPER

COMPREHENSIVE PROGRAM Between November of 1979 and January of 1980, the Environmental Quality Council staff developed a working paper (in the form of draft legislation) which detailed a permit coordination procedure that incorporated the purposes and objectives of HJR-60 with the research and input. In addition, many concepts of the executive branch bill of 1979 proved useful and were utilized in the draft.

The working paper suggested mandating, by statute, a coordinated procedure which would formally and comprehensively encompass all concerns raised in the resolution. Procedures, roles, time frames, and responsibilities were specifically defined, and would be, if adopted, formally instituted within the framework of a fully unified program. The threshold of the resolution, along with the feedback generated by earlier work provided the primary guidelines for these efforts. It was therefore an expression of legislative mandate, research, and input of those affected or concerned.

CIRCULATION The working paper was sent to council members for review, and subsequently the staff received direction to circulate the work to legislators, agencies, and interested parties. Cover letters encouraged review and comments. The letters also related concerns that not addressing problems early could well result in difficulties on the session floor.

MEETINGS On February 4th, the Environmental Quality Council staff met briefly with the executive branch mini-cabinet and again requested agency input. Despite previous involvement in coordination efforts, agency heads chose not to provide specific comment on the working paper at that time, but rather expressed an intent to work collectively on development of an alternative. Other meetings and discussions with developers, citizen's groups, and environmental organizations followed. A number of these same parties presented appropriate testimony and participated in discussion at subsequent Environmental Quality Council meetings.

FEEDBACK The working paper, while remaining within the constraints and intent of the resolution, attempted to incorporate tradeoffs and incentives for anticipated contesting parties. It was, along with the participation strategy, an effort to seek avenues and solutions which avoid the kind of polarization often associated with controversial issues. However, common areas of agreement and a broad-based consensus became difficult to identify, and resistance to coordination surfaced.

A portion of the feedback offered constructive criticism and provided useful suggestions. Other responses marked a complete reversal of previously acknowledged concerns. Some input appeared hostile, while others sympathized with the arduous task of overcoming polarized points of view. State agency involvement and comment was absent.

RESEARCH CONFIRMED Despite the approach taken, and the "balancing act" incorporated into the working paper, affected parties appeared unwilling to accept change, make concessions, or explore procedural alternatives. In short,

divergent philosophies remained strongly polarized, and thus provided no specific direction. As a result, serious questions were left unresolved.

As research suggested, nearly everyone would agree on the need to coordinate permitting procedures, but this consensus would become quite fragile when details were considered. Feedback confirmed that people tend to look at the need for coordination from their own particular point of view, or most are in favor of coordination as long as it changes nothing.

ADDITIONAL MATERIALS During the course of the investigation the staff prepared time frames, brief narratives and schematic flow charts of major permitting statutes. This material was utilized by the council to evaluate the details of the working paper as related to the individual permitting procedures.

EXECUTIVE BRANCH PROPOSED ALTERNATIVE

APPROACH On April 25th at the Environmental Quality Council meeting, the executive branch responded for the first time to the working paper by proposing an alternative intended to clarify, expedite, and coordinate permitting procedures. The approach consisted of four separate actions:

- (a) improve the provision of information and assistance to applicants
- (b) encourage state agency efficiency in the processing of permits
- (c) maintain state agency consultation with the Environmental Quality Council regarding the provision of public information and opportunities for public participation early in the permitting procedure, and
- (d) explore methods of achieving communication and cooperation before applications are filed.

The details of these actions were presented in the Executive Branch Response to the Environmental Quality Council's COPPA Working Draft.

The proposed alternative suggested that refinement and improvement of the present permitting system may not require legislative action in all cases, or could be expressed by rule rather than statute. The plan would establish, somewhat informally, the resolutions concerns on an incremental basis. In general, it advocated possible change be instituted a step at a time, utilizing separate actions.

The drafters of the executive branch proposal, not bound by the specific threshold of the resolution, not only recognized, but were able to avoid most of the inherent complexities and controversial issues and problems associated with establishing an all encompassing coordination program. The proposed alternative, if adopted, would require correspondingly less legislative intervention.

Incremental approaches to permitting programs are showing some advancement in other states, and a step by step implementation of selected concepts may be politically more feasible in Montana.

COMPARISONS After receiving the executive branch proposal, the Environmental Quality Council members directed the staff to draw comparisons between the working paper and the proposed alternative. This comparison was prepared, then utilized by the council to evaluate the various proposals that address HJR-60. Subsequent discussion of the two proposals were directed at the merits of a mandatory program suggested by the Environmental Quality Council as opposed to a voluntary program outlined by the executive branch.**

** Mandatory programs direct applicants to participate in a coordinated procedure when the proposed development requires multiple permits.

Voluntary programs leave participation to the discretion of the developer. An applicant may choose to identify and secure required permits by utilizing the coordinated program, or obtain permits through traditional channels.

Pursuant to satisfying the directives of HJR-60, it was felt that participation in a coordination program should be based on a clearly defined threshold. It was noted that state agencies have, since the enactment of the Montana Environmental Policy Act (MEPA), received directives to coordinate permitting procedures, including Executive Order 4-75. The authority for optional programs therefore already existed. Further, voluntary programs have been the subject of numerous problems and therefore considerable criticism. Conversely, leaving the use of the procedure to the developers option enhance the likelihood of enactment.

BASIC CHOICE Consideration of the preceding proposals concerning coordination left a basic choice; that of an encompassing mandatory coordination program, or adoption of a voluntary and incremental approach. This then, raised yet another fundamental issue: how extensive should coordination efforts be in order to satisfy the directives and the mandate of HJR-60? To obtain specific direction for subsequent work, the Environmental Quality Council staff requested the council to resolve this and other issues.

RESOLUTION OF ISSUES

QUESTIONS The following questions were posed for council consideration:

- (1) Of the seven concerns delineated in the resolution, which are considered to be major problems in Montana's present procedure?
- (2) To what extent should they be addressed to attain the intent of the mandate of HJR-60?
- (3) Which concepts of the working paper properly address the concerns of the resolution? Which do not?
- (4) Do any of the concepts require additional attention or alteration? If so, to what degree should changes be made?
- (5) What response, if any, is appropriate to the executive branch proposed alternative? Suggestions?
- (6) Are the questions (above) relevant to the proposed alternative? If so, to what degree should they be addressed?

JULY '80 MEETING Formal consideration of these questions did not subsequently materialize, and specific issues remained obscure and unresolved. Further attention was not given to these questions until an Environmental Quality Council meeting in July. At that time, several industry representatives again presented comments relative to the overall concept of coordination. They expressed concern that coordination efforts may diminish working relationships established between developers and regulatory agencies. They suggested that any loss of agency contact might affect professional rapport and therefore reduce overall effectiveness. Additionally, federal programs further complicate permit coordination at the state level. In general, business interests are not enthusiastic about coordinated procedures and "have learned to live with regulation."

A citizen's group representative reiterated that opportunity for cooperation and coordination could be attained under existing procedures, and the need for further legislation is questionable.

This discussion reflected the general desires of business interests, agencies, and citizens' organizations. It established that refinement and improvement of current permitting procedures may be attained without the expense of adopting legislation that addresses voluntary programs. The lack of enthusiasm provided relief of the burden of having to resolve differences associated with all encompassing, mandatory programs.

COUNCIL MOTION--RECOMMENDATIONS This, along with all previous consideration of coordination efforts, prompted the council to move that the permit review programs prepared in response to HJR-60 be given a negative recommendation. Additional recommendations include:

- (a) Creation of a facilitators position in the Governor's Office with the responsibility of assuring adherence to time limits. The facilitator would develop and make available a "permitting route" for those who desire or need it.
- (b) An amendment to the Montana Administrative Procedures Act (MAPA) which would subject agency rules to periodic review. This "sunset" provision would nullify rules proven unworkable.

A P P E N D I X

- A. EXECUTIVE ORDER 4-75, OFFICE OF THE GOVERNOR
- B. COORDINATION OF PERMIT PROCEDURES ACT (COPPA),
GOVERNOR'S COMMITTEE FOR BALANCED GROWTH, 1978
- C. HJR-60, MONTANA 46TH LEGISLATURE
- D. STAFF PRESENTATION, EQC MEETING, SEPTEMBER 26, 1979
- E. EQC MAILING, HOUSE JOINT RESOLUTION 60, OCTOBER, 1979
- F. WORKING PAPER - COORDINATION OF PERMIT PROCEDURES,
FEBRUARY 4, 1980
- G. GOVERNOR'S LETTER TO TERRENCE D. CARMODY, APRIL 22, 1980
- H. EXECUTIVE BRANCH RESPONSE TO EQC'S COPPA DRAFT
- I. HJR-60 - COORDINATION OF PERMIT PROCEDURES, MAY, 1980
- J. SUMMARY - COORDINATION OF PERMIT PROCEDURES, MAY, 1980

Proposed Amendments to HB 334

1. Page 2

Following: line 15

Insert:

"(1) If a substance does not have an ambient air standard promulgated by the environmental protection agency (EPA) and a standard is necessary to protect human health and welfare, the board shall recommend adoption of such a standard for the state after conducting an assessment according to subsection (2).

(2) For purposes of this section, "assessment" means:

- (a) reviewing existing research on the substances;
- (b) taking ambient air measurements from appropriate sites within the state;
- (c) evaluating the types and cost of controls needed by the affected industries;
- (d) evaluating the effect of the proposed standard on energy resources and employment; and
- (e) analyzing the environmental, economic, health and social impact of the proposed standard."

HAZARDOUS WASTE

FACT SHEET

MONTANA

The Resource Conservation and Recovery Act of 1976 requires the institution of a national program to control hazardous wastes. The keystone of the program is control of hazardous waste from the point of generation through treatment, storage and final disposal via manifests, record-keeping and reporting.

Congress clearly prefers that states assume responsibility for controlling hazardous wastes within their borders. States are specifically allowed to operate their own hazardous waste program after authorization by EPA. However, EPA will administer the program in those states where minimum requirements are not met.

The following fact sheet portrays the status of hazardous waste management in Montana and items that must still be addressed.

STATE PROGRAM

- * Major industries and trade associations have expressed their desire that a hazardous waste program in Montana be operated by the State.
- * EPA has issued regulations which establish minimum requirements for State hazardous waste programs in order to receive EPA approval.
- * The State of Montana through the Solid Waste Management Bureau has made necessary arrangements, applied for and anticipates receiving partial interim authorization from EPA to manage a State hazardous waste program.
- * The State program will, in the next two to three years, be gradually upgraded until it can qualify for final authorization.
- * Under interim authorization the State program will:
 - * control the identical wastes as are controlled by the Federal program
 - * cover all types of hazardous waste facilities in Montana
 - * be based on standards that provide the same degree of protection as do the federal standards
 - * be administered in a manner substantially equivalent to procedures used in the federal program.
- * The first phase of the State program will:
 - * initiate a State manifest system for tracking hazardous wastes
 - * put into effect transporter requirements
 - * provide temporary licensing of treatment, storage and disposal facilities.
- * The second phase of the State program will involve the final licensing of hazardous waste management facilities under detailed facility standards.

- * The third phase will be the submission of application for final authorization to manage a State hazardous waste program.
- * During the next year, the bureau will review and evaluate data provided from EPA's notification and application requirements.
- * By such evaluation, the State will:
 - * be able to better define the number of generators, transporters and facilities subject to regulation
 - * further determine the quantities of hazardous waste that must be handled
 - * be able to establish future resources needed to manage the State program.

STATE LAWS AND RULES

- Phase Note*
- * The State has adopted within its own administrative rules federal hazardous waste regulations, resulting in a State program equivalent in effect to the EPA program.
 - * As EPA makes amendments in their hazardous waste regulations, the State also will make equivalent amendments.
 - * Certain amendments to existing State Law are being requested of the 1981 Montana Legislature, which are needed to make the State program fully equivalent to the EPA program.
 - * The State Program will NOT be more stringent than the federal program.

STATE RESOURCES

- * For Phase I of the program, staff resources will be limited to existing staff.
- * For this phase, Fiscal Year 1980-81, the total hazardous waste program budget will be \$200,719 and consist of:
 - * \$172,200 - federal grant support
 - * \$ 28,519 - required State matching funds.
- * For the State to maintain a hazardous waste program in Fiscal Years 1981-82 and 1982-83, \$114,000 in state funds must be approved by the 1981 Montana Legislature, to match \$342,000 in federal grant support.
- * The success of the State's application for final program authorization will be dependent upon:
 - * aquisition of new staff to address resource needs
 - * action by the 1981 Montana Legislature in approving budget requests for Fiscal Years 1981-82 and 1982-83.
- * To meet the needs of the program, the State will need to add two professional and one clerical staff in 1981.
- * Additional staff positions will include geologist, environmental engineer and/or environmental specialist. Their duties will involve:

- * the review of manifest information and related records
- * the review and processing of facility license applications
- * facility siting decisions
- * preparation of enforcement actions
- * inspections and sampling
- * development of administrative rules and Phase II and Final application documents
- * preparation of reports.

WHO WILL BE AFFECTED?

- * Industries and other businesses affected in Phase I include oil refineries, chemical manufacturers, pesticide formulating companies, laboratories, petroleum product bulk plants, certain pesticide applicators, certain government activities, waste haulers, and others.
- * In Phase II and Phase III metal mining operations, metal refining plants, oil and gas operations, fossil fuel utilities, hospitals, phosphate mining and refining operations, and businesses which generate waste oil may be brought under the program.
- * Preliminary data indicates the following numbers of businesses are affected under the Phase I program:
 - * Generators.....141
 - * Treatment, Storage and Disposal Facilities.....110
 - * Transporters..... 35

BENEFITS OF A STATE PROGRAM

- * If Montana has a fully authorized hazardous waste program, industry will deal solely with the State. -
- * Montana industries, mining activities and hospitals already deal with the Department of Health and Environmental Sciences under air quality, water quality and health service programs.
- * Appeals and contested cases with the State program will be handled in accordance with standard procedures contained in the Montana Administrative Procedures Act.
- * Adequate hazardous waste management services administered by the State are essential to controlled economic development in Montana.
- * The State will be more effective in determining the need for and, if necessary, the development of required collection centers and/or the siting of hazardous waste disposal facilities within its boundaries.
- * The State has an interest in avoiding a situation where industries within its boundaries are forced to comply with a federal program run from Washington, D. C.

NORTHERN PLAINS RESOURCE COUNCIL

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TESTIMONY OF THE NORTHERN PLAINS RESOURCE COUNCIL on HB 334
House Natural Resources Committee January 26, 1981

Mr. Chairman, members of the committee, for the record my name is Bob Ream. I'm a Missoula area resident and am presenting testimony on behalf of the Northern Plains Resource Council. NPRC is an organization of farmers, ranchers and other citizens who are concerned with the impacts of resource development on their lives. In my case the Bonneville Power Administration may run a million volt power line over my house.

On the surface HB 334 appears to be a simple, little good government type of bill which will inject the Legislature into the actions of the Board of Health. A truly laudable goal. However, the singling out of the ambient air standards amongst all the other state agencies and among the other regulatory functions of the Department of Health reveals the net effect, thrust, and impact of this bill.

First, to the good government arguments.

1). The bill envisions actions by the Legislature, however, there is no review mechanism in it. How will the Legislature act? Will the Legislature duplicate the two year review of the Board of Health? Will legislators subject themselves to the same amount of testimony on complex, technical issues as the Board of Health did?

This situation puts the Legislature in a very bad dilemma. Surely individual legislators will want to be able to make an informed decision. A sincere analysis and review will promote government inefficiency and repetition because it will repeat the review of the Board of Health. Assuming a fair review and an honest weighing of the issues, the Legislature would probably act as the Board of Health did.

If, on the other hand, legislators would prefer a review based on press releases, economic threats, and rumors, the Legislature is subjecting the Health and Welfare of Montanans to the political winds of the moment.

2). The Bill implies that there were overzealous actions by the Board of Health which require redress by the Legislature. Which brings up two points - what overzealous actions and is there any current redress for an aggrieved party?

Given the fact that the Board of Health has stayed enforcement of the foliar fluoride standard, that the number of exceedances allowed for the one hour sulfur dioxide standards was specifically set at 18 per year based on testimony of ASARCO and ARCO, that many other states have standards stronger than Montana's, and that out of 99 variance requests to the Board of Health since May of 1970, only 6 have been denied and none have been denied over the past five years, it is pure fantasy to charge the Board of Health with being excessive.

As for redress of an aggrieved party, administrative law provides ample opportunity for any one who has suffered as the result of the Board's decision to seek justice through the courts. Several industries have sued, the system is working. Is it wise for the Legislature to inject itself into this process?

This does not appear to be good government - wasting time and money, promoting duplication and inefficiency, and disrupting the judicial system.

We next turn to the net policy impacts of this bill. The language means that the Legislature would have to approve 13 ambient air standards and an unknown number of emission standards (this is attached as an addendum). The first and most disturbing aspect of this bill is that it effectively ties Montana's air standards to the whims of Washington and the federal government. Is that wise or desireable? Hundreds of Montanans, organizations, and industries have fully participated in the Montana ambient air standard setting process for the past two years. Will Montanans have the same level of involvement at the federal level? Why turn our future over to the wisdom of the federal government?

Second, as previously mentioned, the bill subjects the health, safety, and welfare of the air standards to the vagaries of political winds. Such a situation will promote an unstabilized regulatory climate - in short, it creates and sets in stone a moving target for industry.

Imagine for a moment the following scenario. The Board of Health, a few years hence, adopts some standards significantly and extremely more strict than the federal standards. In this case, Montana's industries are alarmed. The political winds of the time move in the direction of the Legislature accepting the standards. Industry attempts to sue to prevent chaos. Alas, alack, there will be no judicial review of this Legislative fiat.

To summarize - This bill is not good government and it is assuredly bad policy. And in the immortal words of Calvin Coolidge, Dwight Eisenhower, and our new President Ronald Reagan - "If it ain't broke . . . don't fix it!"

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WHICH STANDARDS DOES THE BILL AFFECT?

AS THE STANDARDS ARE NOW, THE LEGISLATURE WOULD HAVE TO
APPROVE THE FOLLOWING THIRTEEN STANDARDS:

1.	SULFUR DIOXIDE	ANNUAL	24 HOUR	*
2.	TOTAL SUSPENDED PARTICULATE	ANNUAL	24 HOUR	
3.	CARBON MONOXIDE			HOURLY
4.	PHOTOCHEMICAL OXIDANTS			HOURLY
5.	NITROGEN DIOXIDE	ANNUAL		HOURLY
6.	HYDROGEN SULFIDE			HOURLY
7.	LEAD		3 MONTH	
8.	FOLIAR FLUORIDE	ANNUAL		
9.	SETTLED PARTICULATE		30 DAY	
10.	VISIBILITY	ANNUAL		

* IT IS UNCLEAR WHETHER MONTANA'S ONE HOUR SULFUR DIOXIDE
STANDARD WOULD REQUIRE LEGISLATIVE APPROVAL, BECAUSE OF
THE DIFFERENCE IN AVERAGING PERIODS.

TABLE 1. PROPOSED AND EXISTING AMBIENT AIR REGULATIONS

Pollutant	Federal Standard	Existing Montana Ambient Air Rule	Montana Ambient Standard Proposed in Draft FIS	Montana Ambient Standard Proposed in Final FIS	Montana Ambient Standard Adopted by Board
Sulfur Dioxide	0.03 ppm annual average 0.14 ppm 24-hour average not to be exceeded more than once a year 0.5 ppm 3-hour average not to be exceeded more than once a year	0.02 ppm maximum annual average 0.10 ppm 24-hr average not to be exceeded over 1% of the days in any 3-month period 0.25 ppm 1-hr average not to be exceeded for more than one hour in any 4 consecutive days	0.02 ppm annual average 0.10 ppm 24-hour average not to be exceeded more than once a year 0.40 ppm hourly average not to be exceeded more than once a year	0.02 ppm annual average 0.10 ppm 24-hour average not to be exceeded more than once a year 0.5 ppm 1-hr average not to be exceeded more than once a year	0.02 ppm annual average 0.10 ppm 24-hour average not to be exceeded more than once a year 0.5 ppm 1-hr average not to be exceeded more than 10 times a year
Total Suspended Particulate	75 micrograms per cubic meter, geometric annual average 260 ug/m ³ , 24-hr average not to be exceeded more than once a year	75 ug/m ³ annual geometric mean 200 ug/m ³ not to be exceeded more than 1% of the days a year	75 ug/m ³ annual average 200 ug/m ³ 24-hr average not to be exceeded more than once a year	75 ug/m ³ annual average 200 ug/m ³ 24-hr average not to be exceeded more than once a year	75 ug/m ³ annual average 200 ug/m ³ 24-hr average not to be exceeded more than once a year
Carbon Monoxide	35 ppm, 1-hr average not to be exceeded more than once a year 9 ppm, 8-hr average not to be exceeded more than once a year	--	9 ppm 8-hr average not to be exceeded more than once a year 17 ppm hourly average, not to be exceeded more than once a year	9 ppm 8-hr average not to be exceeded more than once a year 23 ppm hourly average, not to be exceeded more than once a year	9 ppm 8-hr average not to be exceeded more than once a year 23 ppm hourly average, not to be exceeded more than once a year
Photochemical Oxidants (Ozone)	0.12 ppm hourly average not to be exceeded on more than one day a year	--	0.10 ppm hourly average, not to be exceeded more than once a year	0.10 hourly average, not to be exceeded more than once a year	0.10 hourly average, not to be exceeded more than once a year
Nitrogen Dioxide	0.05 ppm annual average	--	0.05 ppm annual average 0.17 ppm hourly average, not to be exceeded more than once a year	0.05 annual average 0.30 ppm, hourly average, not to be exceeded more than once a year	0.05 annual average 0.30 ppm, hourly average, not to be exceeded more than once a year
Hydrogen Sulfide	--	0.03 ppm 5-hour average, not to be exceeded more than twice in any 5 consecutive days 0.05 ppm 1/2-hour average, not to be exceeded over twice a year	0.10 ppm hourly average, not to be exceeded more than once a year	0.05 ppm hourly average, not to be exceeded	0.05 ppm hourly average, not to be exceeded
Lead	1.5 ug/m ³ , calendar quarter average	5.0 ug/m ³ , 30-day average	1.5 ug/m ³ calendar quarter average	1.5 ug/m ³ , 3-month average	1.5 ug/m ³ , 3-month average
Fluoride	--	1.0 ppb, 24-hr average, total fluoride (as HF) 0.3 micrograms per square centimeter per 24 days (gaseous)	1.0 ppb 24-hr average 0.3 ppb 30-day average 0.11 ppb growing season average	1.0 ppb 24-hr average, aqueous fluoride 0.3 ppb 30-day average	No Standard Adopted
Foliar Fluoride	--	35 ppm, dry weight basis	10 ug/m, dry weight basis	35 ug/m in forage, annual average, no monthly average to exceed 50 ug/g	20 ug/g monthly average
Settled Particulate (Dustfall)	--	15 tons/sq mile/month, 3 month average in residential areas 30 tons/sq mile/month 3 month average in heavy industrial areas	10 gm/m ² 30 day average	10 gm/m ² , 30-day average	10 gm/m ² , 30-day average
Visibility	--	--	Particle scattering coefficient of 2×10^{-5} per meter annual average	Particle scattering coefficient of 3×10^{-5} per meter annual average	Particle scattering coefficient of 3×10^{-5} per meter annual average
Reactive Sulfur (Sulfation)	--	0.25 milligrams sulfur trioxide/lm sq. centimeter/day, maximum annual average 0.50 milligrams sulfur trioxide/lm sq. centimeters/day, max. for any 3-month period	--	--	--
Suspended Sulfate	--	4 ug/m ³ of air, max. allowable annual ave. 12 ug/m ³ of air, not to be exceeded more than 1% of the time	--	--	--
Sulfuric Acid Mist	--	4 ug/m ³ of air, max. allowable annual average 12 ug/m ³ of air, not to be exceeded more than 1% of time 30 ug/m ³ of air, hourly average, not to be exceeded over 1% of the time	--	--	--
Beryllium	--	0.01 ug/m ³ , 30-day average	--	--	--
Arsenic	--	--	--	Deferred for further study	Deferred for further study
Cadmium	--	--	--	Deferred for further study	Deferred for further study

Testimony in Opposition to HB 334
submitted by Richard Steffel

My name is Richard Steffel. I live and have to breathe in Missoula, Montana. I appear before you today to oppose HB 334 on the grounds that it is bad legislation and not in the best interests of the people of Montana. It smacks of special interest favoritism and is nothing short of an attempt to circumvent the expressed will of the people of Montana.

This bill is obviously directed at striking down the newly adopted state ambient air standards. Consequently, if adopted this bill would completely waste most of the time and money spent to develop these standards; the time amounting to over three years and the taxpayers' money spent being in excess of \$200,000.

To review the history, the standard setting process began in the fall of 1977, when the issue of enforceable ambient air standards began to be studied. The first, "working paper", used to bring interested, informed parties into the process, was issued May 2, 1978. It was followed by a series of other papers, all of which generated responses and suggestions for improvements from both affected industries and from members of the public.

Based on that initial groundwork, a Draft Environmental Impact Statement (DEIS) was issued in January, 1979. The decisions that it represented were the product of at least 8 months of work by the staff of the Department of Health and Environmental Sciences (DHES). The proposals it contained arose from exhaustive reading of all the pertinent scientific literature and from discussions with the industries involved and with some of the public.

The DEIS was circulated throughout the state for comment, and many were made. Responses came in volumes of materials in which every aspect of the standards was dissected and examined. Again, recommendations for improvement were made. The DHES carefully read each of those responses and again made alterations and refinements in their proposals.

Finally, the Final Environmental Impact Statement (FEIS) was issued in January, 1980, containing the DHES ultimate recommendations. Again the written responses came by the stack, and again the department studied those arguments. This time the DHES stood firm and brought their conclusions to the State Board of Health and Environmental Sciences (SBHES) for a decision. The Board then held a series of public hearings to get both oral clarification of some of the points raised and to hear from the people of Montana.

Many citizens came to those hearings. The vast majority spoke in favor of protecting Montana's environments with as stringent air standards as necessary. The SBHES listened and decided, making only two changes in the final departmental recommendations.

And now, after all that, you are being asked to flush most of that process down the drain. You are being asked to circumvent years of work costing taxpayers hundreds of thousands of dollars. You are being asked, in the name of a special few, to ignore the expressed will of the people of Montana. Such a decision may be within your power, but it would represent both an unwarranted breach of the fairness of administrative rule-making and an abrogation of your responsibilities to the people of this state.

These standards were not made in a vacuum, and the people that proposed them and adopted them have no vested interest in quashing industry in Montana. The standards were promulgated to protect the environmental integrity of this state, and were chosen only after years of study and debate. They were also developed with the full participation of affected industries and the citizens of Montana. To overturn them now at the request of a special few would be to invalidate and mock the entire process of participatory decision-making. The very suggestion that you do so is an affront to all those citizens who participated with the good faith that their involvement mattered.

I am a citizen of Montana and I was involved in the process. I read the two DHES documents and much of the response to them. I responded myself. I don't like or agree with all the decisions that were made, but I accept that most of them are adequate for the time being. However I view the results, I was involved in the process through which they were chosen. I played by the rules.

I spent two years working to inform myself and to inform others as to some of the complex issues involved in the standards. Now you are being asked to whisk that and many similar efforts into the dustbin and to take the decision-making upon yourselves. The bill before you would saddle this body with having to review, in a very short period of time, a set of decisions that took years to propose and years of experience to understand and finally decide upon. To require that is unfair to both you and to Montana. It is not right to ask this body to make any more such complex decisions in the short time available during a legislative session. That is and should be the job of the administrators of the laws who work with them on a daily basis. It is also not fair to the state of Montana that such minute and complex decisions be made in the haste and politically charged atmosphere of a legislative session. To ask you to do so is an attempt to change the rules in the middle of the game and is but a last ditch attempt to undermine the fair process by which these standards were selected.

If the interests that framed this bill are dissatisfied with the standards, let them use the existing, proper channels to seek their review. Let them use the courts where the entire proceeding can be reviewed and argued in an apolitical arena. Those are the fair rules of this game, and to try to change them at this late date smacks of cheating.

I therefore ask that you kill HB 334 and maintain the integrity, accessibility, and fairness of the existing process.

Respectfully and sincerely submitted,

Richard Stoppel

TESTIMONY

HOUSE NATURAL RESOURCES COMMITTEE

Jan. 26, 1981 HB 334

I would like to speak in opposition to H.B. 334, which requires legislative approval for the implementation of our air quality laws.

I farm in the Chester area, which is one of the proposed sites of Resource 89, so I have become very aware of our present air quality laws.

If legislative approval is required for all of our various air quality laws to be implemented at their present level, then the inevitable result will be that many of these laws will not be implemented.

There may be some who say that this is a result to be highly desired. This may be, but I feel that the level of protection under air quality laws is not a political question. Rather, this question is a medical and a technical question.

For example, in the E.I.S. on the ambient air quality standards, there are pages of summaries of technical papers on the medical effects of levels of different pollutants on various health problems and their interconnected and interacting synergistic effects.

With all due respect, I submit that the lay people of this legislature are not qualified to make determinations on levels of various pollutants to be allowed. Nor am I qualified for this. This would be like voting on how safe we want airplanes to be.

We in Montana have a board of doctors and technical experts whose training gives them this expertise, and we should let them fulfill their role.

To say that we should simply adopt federal regulations is to forget that the federal levels of air protection were created by a political process of compromises.

Much scientific data shows that there are medical effects from pollution at levels well below the federal standards. And the Guderian study, cited in the ambient air quality E.I.S., showed that the yield of wheat was reduced 15% by a level of sulfur dioxide only $\frac{1}{2}$ of the present federal standard.

We are all concerned about economic hardship caused by the need for pollution control, but rather than reduce our health protection, I would rather see the legislature use a portion of the coal tax fund for its original purpose ~~for~~ of alleviating energy development effects by giving grants to companys to bring them into compliance with present air quality laws.

The political process has determined that we will have air quality standards. The level of these standards should not be a political football.

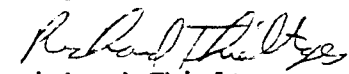

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TABLE III. A-III SUMMARY: EFFECTS OF SULFUR DIOXIDE ALONE AND
IN COMBINATION WITH OTHER POLLUTANTS TO SELECTED PLANTS AT 0.50 PPM OR LESS

Plant Species	Concentration	Exposure	Response of Vegetation	References
Bean 4-pair leaf and 5-pair leaf stages	0.05 ppm Sulfur Dioxide (SO ₂)	10 min.	Stomata opened wider (measured as decreased diffusive resistance); A similar response occurred at 0.10 ppm and 0.45 ppm. Oldest leaves were most sensitive (stomatal resistance increased with leaf age irrespective of the SO ₂ concentrations).	Biscoe <i>et al.</i> 1973
Bean	0.02 ppm SO ₂	10 min.	Stomata opened wider (measured as decreased diffusive resistance).	Unsworth <i>et al.</i> 1972
Corn at 4-leaf state	0.01 ppm SO ₂	10 min.	Stomata opened wider (measured as decreased diffusive resistance).	
Red pine seedlings	0.5 ppm SO ₂	15 min.	Reduction in chlorophyll in primary needles Decrease in dry weight (growth) of cotyledons and primary needles Results were greatly magnified when exposure was continued for 30, 60, and 120 minutes.	Constantindou <i>et al.</i> 1976
Beans and Corn	0.10 ppm SO ₂	20 min.	Stomata opened wider (measured as decreased diffusive resistance). No difference between plants exposed in dark or light: SO ₂ opens stomates in the dark	Unsworth <i>et al.</i> 1972
Pea	0.05 ppm SO ₂ + 0.05 ppm Nitrogen Dioxide (NO ₂)	1 hour	Significantly decreased net photosynthesis	Bull & Mansfield, 1974
Beans 4-leaf stage	0.10 ppm SO ₂	1 hour	Stomata open wider (measured as decreased diffusive resistance). Note: Water-stressed plants exhibited wider opening and an earlier response than fully watered plants.	Unsworth <i>et al.</i> 1972
Alfalfa	0.15 ppm SO ₂ + 0.15 ppm NO _x	1 hour	Inhibits photosynthesis, percent of reduction not stated, but authors state synergistic effect most marked at this concentration.	White <i>et al.</i> 1974
Alfalfa	0.15 SO ₂ + 0.15 ppm NO ₂	1 hour	Greater-than-additive inhibition (7%) photosynthesis (as measured by CO ₂ uptake). Similar results at 0.25 ppm for both gases.	Bennett & Hill, 1974
Alfalfa	0.35 ppm SO ₂	1 hour	8% reduction in apparent photosynthesis	White <i>et al.</i> 1974
Spongy mesophyll of 25-day old broad bean leaves at second node from base.	0.25 ppm SO ₂	1 hour	Slight swelling of stroma thylakoids of chloroplasts. Author states implication is impairment of photosynthesis. At 2 hrs. at 0.25 ppm swelling spread to granum thylakoids. These effects reversible.	Wellburn <i>et al.</i> 1972
Alfalfa	0.30 ppm SO ₂ + 0.10 ppm Ozone (O ₃)	1 hour	Additive inhibition of photosynthesis 11% ± 3% measured by CO ₂ uptake. Some tissue damage.	Bennett & Hill, 1974
Pea	0.50 ppm SO ₂	1.5 hour	Initiation of leaf injury	Heck & Dunning, 1976
Eastern white pine	0.05 ppm SO ₂	2 hour	Caused tip damage on new needles	Costonis, 1973

Plant Species	Concentration	Exposure	Response of Vegetation	References
Tomato	0.20 ppm SO ₂	15 days	First sign of tissue death. By this time the vitamin content has been substantially reduced or changed (B ₁ , B ₆ Nicotinic acid.)	Unzicker <i>et al.</i> 1975
Lettuce	0.29 ppm SO ₂	15 days	Damage leaf areas, 30% thiamine content reduction	Unzicker <i>et al.</i> 1975
Peas	0.1 ppm SO ₂	18 days	Significant reductions in protein and yield. Less significant loss of other nutrients	Jager and Klein, 1977
Orchard Grass	0.11 ppm SO ₂	4 weeks	34% reduction in leaf size, 45% reduction in dry weight	Ashenden, 1978
Lycgrass	0.11 ppm SO ₂	4 weeks	20% reduction in leaf size, 40% reduction in total dry weight	Ashenden and Mansfield, 1977
Bluegrass	0.06 ppm SO ₂	6 weeks	Reductions in photosynthesis, respiration, and the chlorophyll content. Slight increase in productivity.	Ferenbaugh, 1978
	0.13 ppm SO ₂	6 weeks	Decrease in productivity	
Buckweed	0.15 ppm SO ₂	6 weeks (1008 hrs)	Reduction in size of fronds; starch content reduced.	Fankhauser <i>et al.</i> 1976
Buckweed	0.15 ppm SO ₂	51 days (1224 hrs)	Reduction in starch, reduction in growth (measured as reduced surface area, average dry weight, reduced doubling time)	Fankhauser <i>et al.</i> 1976
Ryegrass	0.12 ppm SO ₂	8 hour/day, 9 weeks (504 hrs) 8 hour/day, 26 weeks (1456 hrs)	46% reduction in yield measured as leaf and tiller production; increased loss of leaves, 52% reduction in dry shoot weight.	Bell and Clough, 1973
Ryegrass	0.073	26 weeks (4368 hrs)	50% reduction in dry weight of shoots	Bell and Mudd, 1976
Ryegrass	0.037	periodic harvest between 6 and 43 wks.	Whole plant dry weight of ryegrass grown either on a nutrient-rich sand culture or on unfertilized field soil was depressed for up to 36%	Crittenden and Read, 1978
A number of Montana range plants.	SO ₂ concentrations ranging from 0.02 ppm, 0.05 ppm, 0.15 ppm, 0.25 ppm	growing season	Few responses during 1st year of exposure. A number of subtle effects at second year including: Earlier leaf fall, insect exodus, reduced species diversity, root/shoot impairments, possible seed germination delay, inhibition of litter decomposition.	
Scotch Pine, Norway Spruce, Douglas Fir, Frazier Fir	less than 0.01 ppm SO ₂ 0.01 ppm NO ₂ 0.07 ppm HF 0.05 ppm O ₃ four month average during growing season	growing season	Growth abnormalities, needle loss and tissue death	EPA, 1971
Wheat	0.015 ppm SO ₂	growing season	15 percent reduction in grain weight yield.	Guderian, 1977
Oats	0.01 ppm SO ₂	growing season	leaf injury	Guderian, 1977
White Birch	0.006 ppm	growing season	No effects on sulfur content of foliage development of leaf SO ₂ injury	Linzon, 1978
	0.011 ppm	growing season	Elevated sulfur levels trace to light leaf SO ₂ injury	
	0.026 ppm	growing season	Moderate to severe leaf SO ₂ injury	
	0.048 ppm	growing season	Severe SO ₂ injury symptoms and leaf sulfur concentrations 3 times normal	

My name is Philip C. Tourangeau and I live at 1705 Defoe Street in Missoula. I am the Director of the Environmental Studies Laboratory in the Botany Department at the University of Montana. I submit this statement ^{ON} ~~to~~ House Bill 334 because I am concerned that:

(1) The amendment may prevent parties who are legitimately aggrieved by an action of the Board from obtaining Judicial review;

(2) The amendment may prevent the Board or the Department from responding to certain requirements of the State Clean Air Act, and

(3) The ammendment may significantly delay the timely construction of new industry, or the timely expansion of existing industry, and

(4) The amendment may permit concentrations of air pollutants in the outdoor air to remain at levels which have been scientifically shown to be detrimental to human health and welfare.

(1) The amendment may prevent parties who are legitimately aggrieved by an action of the Board from obtaining Judicial review.

Presently, any person who is aggrieved by an order of the Board may appeal to the Board, to the appropriate District Court, and ultimately to the State Supreme Court. Under the proposed amendment, no ambient air quality standard nor any emission standard which is adopted by the Board and which is more stringent than Federal Standards would have any force or effect until approved by the Legislature.

If the proposed amendment is passed, will an aggrieved person be required to present his case to the Legislature? If so, will the Board be required to defend itself before the Legislature? If the answer to these two questions is yes, will the Legislature be performing a function which is more appropriately left to the Judiciary?

Suppose that the Legislature were to approve a standard adopted by the Board which required such approval. To whom does a person who is legitimately aggrieved by the Board's adoption then appeal? Does the person appeal to the Board and subsequently to the Courts? If so, and the aggrieved person is granted relief, we may have the situation where the Legislature has approved standards which were subsequently overturned by the Judiciary. But this question also stands forth: Can the Judiciary review an action of the Board which has been approved by the Legislature?

I am not an attorney and I certainly cannot answer any of the above questions. However, I suggest that this committee very carefully assess this proposed amendment with the following thought in mind: Would this amendment place the Legislature in the position of performing functions which are more appropriate to the Judiciary, and would this amendment impair, or interfere with an aggrieved person's right to appeal from an action by an Administrative Board of this State?

(2) The amendment may prevent the Board or the Department from responding to certain requirements of the State Clean Air Act

Presently, units of local government may establish a local air pollution control program provided that it is consistent with the State Clean Air Act, and it has been approved by the Board. However, if the Board finds, after public hearing, that the local program is inadequate, or is not accomplishing the purposes of the State Clean Air Act, the Board "...shall require that necessary corrective measures be taken within a reasonable period of time, not to exceed sixty days." (75-2-301,(4)). Note the use of the words "shall require". The Board must insure that corrective measures are taken; there is no discretion. What if the Board finds that emission standards which are more stringent than the Federal Standards are necessary corrective measures? Must these standards be approved by the Legislature? What if the Legislature is not in session?

What if the Legislature does not approve of the more stringent emission standards? Would that disapproval aggravate an air pollution problem?

Now, if the local authority fails to take the Board's corrective measures within the time required, the Department shall administer the local program, and the cost will be borne by the unit of local government (75-2-301(5)). Assume that the corrective measures required Legislative approval, and that such approval was not obtained within sixty days. Assume further that the local authority was prepared to undertake the Board's corrective measures. Will the situation arise wherein the Department, by law, must assume jurisdiction of a local program and charge the unit of local government the costs of administering such program, even though the local authority was prepared to implement the Board's corrective measures, but could not, simply because legislative approval was not obtained within the required time?

Let us now turn to the situation wherein a unit of local government chooses to establish a local air pollution control program and determines that emission standards which are more stringent than federal standards are required. The local program must be approved by the Board, and suppose it is approved. Will that approval require subsequent Legislative approval? Suppose it does and the Legislature disapproves? To whom does the unit of local government appeal for relief? What if the more stringent standards are required to insure attainment of a Federal ambient air quality standard in a non-attainment area? If the more stringent standards are not approved, will the Environmental Protection Agency be forced to intervene to insure progress toward attainment of Federal standards?

Section 75-2-401 of the Clean Air Act addresses enforcement. If the Department believes that a violation has occurred it may notify the alleged violator and may include an order to take corrective action. Supposing such a notice involved violations of a Board-adopted Federal ambient air quality standard, and the corrective measures included an emission limitation more

stringent than an applicable Federal standard or guideline. Assume that the alleged violator appealed to the Board but the Board affirmed the Department's order. Will that more stringent emission limitation require Legislative approval? If so, what if the Legislature is not in session? Will this proposed amendment prevent the Department from carrying out actions mandated by the State Clean Air Act?

(3) The amendment may significantly delay the timely construction of new industry, or the timely expansion of existing industry.

In order for a major stationary source of air pollution to construct, the proposed source must obtain a construction permit. Such permits are commonly referred to as PSD permits. In order to obtain the PSD permit, the owner or operator must do several things, including demonstration that the source will meet any applicable Federal Standards of Performance for New Stationary Sources. These are emission limitations, or standards. The source must also install the best Available Control Technology, commonly referred to as BACT, for each and every air pollutant regulated under the Federal Clean Air Act which the source emits.

Now, what is BACT? It is defined as follows by the 1977 amendments to the Clean Air Act (169,(3)): "The term 'best available control technology' means an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which result from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of each such pollutant.". Clearly, BACT is not something which comes in a box from Japan. BACT includes methods, systems, and techniques which the permitting authority determines on a case-by-case basis are achievable for a particular

major stationary source. The permitting authority determines BACT by conducting a BACT analysis which takes into account energy, environmental, and economic impacts, and other costs.

So, two things are acting on the emission rate of a new major stationary source: Federal emission standards and BACT. If BACT results in an emission rate which is less than Federal emission standards, BACT still must be installed.

Suppose that, once the State has received authority from EPA to issue PSD permits, that a construction application is received from the owner or operator of a proposed new stationary source of air pollution. This could be a power plant such as Resource 89, a synfuels plant, or even an ethanol plant. Further suppose that the Department determines, after its BACT analysis, that the proposed air pollution controls do not constitute BACT and denies the permit application. If the applicant disagrees, he may appeal to the Board, and, let us assume, a priori, that he does so, but the Board upholds the Department.

Does the Board's action require Legislative approval? If so, the requirement to install BACT to achieve the more stringent emission rate has no force or effect. However, the owner or operator cannot commence construction because he does not have a PSD permit. So now what does he do? Can he appeal an action of the Board, which has no force or effect, to the Judiciary? Say he waits for Legislative action but the Legislature approves. If the applicant still disagrees where does he turn? Suppose the Legislature disapproves ^{of} ~~the~~ the more stringent limitation, then, it's back to the Department for the PSD permit. However, the Department must be consistent with the Federal Clean Air Act, and still deny the permit because the owner or operator must install BACT. Now what? Get the Legislature to direct the issuance of the permit? What ~~will EPA say to that?~~

I suggest that the proposed amendment might significantly and needlessly delay new industrial development and expansion of our present industrial facilities. That can have significant economic impacts, possibly impair national energy goals,

and might affect the goal of reduction of dependence on foreign oil.

(4) The amendment may permit concentrations of air pollutants in the ambient air to remain at levels which have been demonstrated to be detrimental to human health and welfare.

As I have stated before, there currently exists a mechanism for appeal for persons who are aggrieved by an action of the Board. And those mechanisms are available right now to persons who may be aggrieved by ~~the~~^{the} State's recently adopted ambient air quality standards. Let me briefly review the appeal process:

First a person may appeal to the Board and then the appropriate District Court, and then to the Supreme Court. If the appeal proceeds to District Court, the Court must hear and decide the matter on the certified ~~word~~^{RECORD} of the Board. The Court must determine if the Board pursued its authority, if its findings were supported by substantial competent evidence, and if the Board made errors of law prejudicial to the appellant. Does the Legislature have time to conduct such a review of the Board?

If the person or the Board then appeals to the Supreme Court, it must review the record of the appellant's hearing before the Board and the District Court hearing. Does the Legislature have the time to conduct such a review?

If not, then what mechanisms will the Legislature use to determine if ambient standards less stringent than Federal standards are warranted, and what criteria will be employed? How will the Legislature determine that the Federal standards are sufficient to "... achieve and maintain levels of air quality as will protect human health and safety ..."?

If the Board has made such errors that proposals for Legislative approval of their actions are induced, then, clearly, the Courts will also detect them. However, if the Board has not made such errors, and if the Board's ambient air standards are necessary to protect health, and if the Legislature disapproves them because they are more stringent than the Federal standards, then the Federal standards are in force. If, as a result of this, there are people who are at risk of health and safety at Federal levels, they are at that risk because

of Legislative action. And that, I suggest, is not a good thing to have happen.

Thankyou.

16 Hidden Valley Road
Havre, Mt. 59501
25 January 1981



To: House Natural Resources Committee

From: The League of Women Voters of Montana
Marty Onishuk, State Air Quality Chairman

Subject: Opposition to HB 334

The Montana League of Women Voters comprises 550 citizens interested in governmental issues. We support the present emission and ambient air quality standards and the procedure by which the state Board of Health established them.

The Montana Constitution Declaration of Rights guarantees citizens "the right to a clean and healthful environment" and states that it is the responsibility "of the state and each person to maintain and improve a clean and healthful environment." In addition, the 1967 Montana Clean Air Act, passed three years before any federal air pollution legislation, declares it is the "public policy of this state to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote economic and social development of this state, and facilitate the enjoyment of natural attractions of this state."

State emission standards and, more recently, ambient standards were set after extensive hearings considering the best scientific, technical, economic, environmental and social data available. Participants included industry, labor, environmental and other groups.

Emission standards were set in 1972 with updates as technology and information changed. The ambient standards have not been significantly changed since they were found to be "goals and guidelines" and not legally enforceable in 1977. The newly-adopted standards, the result of a two-year study, are practically identical to the old ones except for one fluoride standard.

A study by Data Resources, Inc. for the Environmental Protection Agency and the Presidential Council on Environmental Quality states pollution control spending will create jobs in the manufacture and operation of pollution control equipment, reducing the unemployment rate by 0.2 percent per year between 1982 and 1986. Most jobs lost by plant closings have occurred at old,

economically marginal facilities, such as the Anaconda smelter. President Cox of the Anaconda Company has indicated pollution control costs were only one of many considerations for closing the older smelter at Anaconda. Just how important those other considerations were became evident in December, when EPA expressed its willingness to extend compliance deadlines for seven years. The company had never met federal sulfur dioxide standards, let alone state standards. Since Anaconda had already proceeded with its plans to have its ore smelted in Japan, the company naturally turned down EPA's offer. (In view of the frequent criticism that stringent environmental standards repel industry, Anaconda's move to Japan is particularly interesting since Japan's sulfur dioxide standards are considerably more strict than Montana's as are those of twenty other states. We would also like to point out that Anaconda's and ARCO's decision to close the smelter is inconsistent with the statement ARCO made before purchasing Anaconda that it was willing and able to implement the retrofitting required by federal air quality standards. The inconsistency has never been explained, but we believe it raises the strong possibility that the decision to move was based on economic factors unrelated to pollution control.

According to Michael Baram, Director of the Program on Governmental Regulations at the Franklin Pierce Law Center, "Solutions to societal problems such as nuclear reactor safety and human exposure to chemical carcinogens require consideration of humanistic and environmental principles. Consideration of these principles is incompatible with a regulatory decision-making process in which economic factors play a dominant role."

The cost-benefit approach to decisions on environmental matters harbors a basic flaw. The risks are borne by members of the population and sometimes even by generations that do not enjoy the benefits; for example, many children in Missoula have decreased lung function because of the pollution in the valley and 5-8% of the children in East Helena have blood levels of lead known to cause anemia or mental damage. A congressional report suggests that risk-benefit analysis may institutionalize a bias against public interest. Why? Because benefits are easier to measure than risks which may not occur for years.

Environmental standards must be set with the health and welfare of Montanans receiving first priority. Because of the complex, technical nature of the data, we feel that setting emission and ambient air quality standards belongs to the state Board of Health working with the Department of Health and Environmental Sciences. The Legislature does not have the time to properly review the Board's action in the 90-day biennial session. A bad precedent would be set if the Legislature must approve the rules of any duly appointed state board. Where would review stop?

The time required for a decision on standards would be extended by an additional review by the biennial Legislature. Industry has repeatedly testified here against additional governmental regulation. Ironically, the legislature review industry has demanded would only increase governmental red tape.

The League of Women Voters of Montana supports the present procedure of the State Board of Health as final authority in setting air quality standards. Weakening Montana's standards to federal levels will not protect Montanans from continued damage caused by fluoride and hydrogen sulfides, pollutants not even listed in federal standards. Further, human health, especially of the very young and the elderly, will not be adequately protected. Higher allowable level of sulfur dioxide and particulates will adversely affect human health.

Montanans were pioneers in establishing air quality standards. Our Board of Health and Environmental Sciences has now established reasonable and effective standards to protect the health and welfare of the citizens of Montana. Let us not sacrifice air quality on the pretext of economic hardship.

Testimony on House Bill 334

January 26, 1981

Hal Robbins, Chief
Air Quality Bureau

Members of the Committee: I would like to thank you for the opportunity to speak before you today on House Bill 334. The Department would like to go on record as opposing this legislation.

My name is Hal Robbins, I reside in Helena, Montana and am the Chief of the Air Quality Bureau. My testimony is presented on behalf of the Department of Health and Environmental Sciences.

The Department believes that the passage of this legislation would essentially throw away three years of work, of debate, of compromise, and of discussion among the Department and all major interests in the state, as well as over \$140,000 of state money. We feel the need to convince you that the adoption of the federal standards in lieu of the Montana standards is unnecessary and will not serve the interest of Montana's people.

Since HB 334 proposes to prevent the Board of Health and Environmental Sciences from adopting both ambient and emission standards without the approval of the Legislature, let me separate my comments into emission and ambient standards. As you are already probably aware, ambient standards refer to limitations on the amount of pollution in the air to which the public has access. Emission standards, on the other hand, refer to limits on the amount of pollution that may escape from a smoke stack or similar equipment.

Emission Standards

The Department will raise four general comments or issues concerning the setting of only federal emission standards without legislative approval.

1. House Bill 334 refers to the establishment of emission and ambient standards more stringent than "the" federal standards. It is not clear to the Department which federal standard is to be considered, since there is no "the" or single emission standard. We assume that the spirit of the bill would suggest that the "new" source performance standards are "the" federal standard. If this is indeed the case, then the bill has generally fallen short of the mark. The Department adopted Federal New Source Performance Standards in 1975, and they have been amended several times to reflect updated or new federal standards.
2. It is not clear what the intent of HB 334 is when faced with standards for which there is no equivalent federal standard. If the Department and/or Board wish to adopt a standard for a pollutant that is not regulated by EPA, or if the Department wishes to adopt a standard for a category of sources that the Environmental Protection Agency does not regulate, will legislative approval be necessary?
3. How does this bill affect the regulation of emission standards for existing industries? The Environmental Protection Agency does not generally regulate existing sources by setting overall emission standards. The setting of emission standards is done on a case-by-case determination relevant to a particular problem or violation of an ambient air quality standard. The control of existing sources is generally left to the State, so long as the ambient air quality standards are protected.

4. The fourth issue is the effect of this bill on new or proposed industries. As was previously stated, the State has already adopted the federal new source performance standards. Any company desiring to build a plant within the United States must obtain a permit from either the Environmental Protection Agency or the appropriate State agency. Montana, as many states, has an authorized program for granting permits to new facilities. The authority for giving permits within the State of Montana, therefore, rests with the Air Quality Bureau. One of the conditions necessary before obtaining a permit to construct and operate a facility is to install the Best Available Control Technology (BACT). The BACT is an emission limitation based on a case-by-case analysis for each proposed facility that as a minimum must be New Source Performance Standard (NSPS). The BACT may be more stringent than NSPS if the analysis shows that the proposed technology is available, and economically practicable. The use of BACT, therefore, becomes a tool in which industries are encouraged to install the best pollution control equipment, but at an affordable price.
- The use of the BACT concept provides no economic advantage for companies to prefer one state over another based on the emission standards.
- In terms of this bill's affect on the adoption of federal emission standards, the Department contends that it has no real purpose or advantage. The bill essentially requests the Department to adopt New Source Performance standards which were already adopted six years ago. New industry on the other hand, is already required to install the best available control technology, which has as a prerequisite NSPS, availability, and economics.

Ambient Standards

Let me now turn my attention to the issue of adopting federal ambient standards in place of the current Montana ambient air standards. The Department is fearful that the request to adopt these standards is born of frustration. The frustration is manifested through the decision of Atlantic Richfield to close facilities at Anaconda and Great Falls, as well as the current national phenomenon of regulation which at times can become overregulation. Who could not be fully sympathetic with these problems? I assure you that our agency becomes very frustrated when dealing with larger federal agencies. Nevertheless, I must implore upon this committee and the Legislature to be careful to distinguish between the ambient air quality standards and complaints about the regulatory process in general. In recent weeks of testimony in various forums, the Department has found it increasingly more difficult to distinguish any grievances over the air quality standards from the grievance of generalized dissatisfaction with overall regulation.

Please allow me the opportunity to make a case for these remarks.

1. Stringency. Much discussion has revolved around the stringency of the standards relative to the Federal standards. I have heard many people discuss with disdain the severity of the Montana standards. Such general criticism is totally unfounded. There were a total of 15 standards adopted by the Board in July 1980. Of these 15 standards,
 - 2 are identical to federal standards
 - 2 are effectively the same as federal standards
 - 4 are more stringent than the federal standards
 - 5 have no equivalent federal standards
 - 2 are weaker than the federal secondary standards.
 Further, of the four standards more stringent than the federal

standards, two of these (nitrogen dioxide and ozone) have not been nor are anticipated to be problems in Montana.

The comparison would not be complete without an analysis of at least the surrounding states. I have an attached copy of such a comparison of Montana's most controversial standards, with the same standards of Montana's neighbors. Of the 41 comparisons for which there are federal standards, 20 (including Montana comparisons) have standards stronger than the EPA, 19 had standards equivalent to the Federal standards, and only Montana had standards less stringent than the federal secondary standards. A comparison also is made on this chart of Montana's fluoride standards to those of neighboring states. Montana currently has the most stringent of surrounding states with Wyoming a close second. Most states do not have standards for fluorides in their states, since they do not have any source of fluoride.

Rather than talk of relative stringencies, it might be more useful to discuss the effects of ambient quality standards on existing and new or proposed companies.

2. Existing Companies. The effect of the Montana Ambient Air Quality Standards on existing industry is potentially much greater than that of new sources. Specifically, there are four general sources that will be directly affected by the ambient air quality standards. As a matter of note, an analysis was conducted by the Department on the effect of the standards on each of the major industries as part of the EIS process.

Stauffer and Anaconda Aluminum

The Board of Health, in adopting the fluoride standard that affects these two industries, had to reach a delicate balance between the cattle industry and the chemical industry. A high level of fluoride and healthy cattle are not able to co-exist with any degree of success. The Board, therefore, set a standard which it believed at the time could be met without any additional controls by Anaconda Aluminum, and which they felt could be met by Stauffer Chemical Company. Since the Board made its initial decision, it has decided to "rethink" the matter and has requested the Air Quality Bureau to study the issue further to see if, in fact, their assumptions were correct. In the meantime, the Board has issued an administrative stay order on the fluoride standard essentially absolving industry of any responsibility for the standard until the issue can come before the Board at its next hearing. The standard for fluoride, therefore, is not in effect until the issues are resolved.

ASARCO

ASARCO is completing a major pollution control program which will enable the plant to comply comfortably with both federal and state standards for sulfur dioxide. Data for the first nine months of 1980 indicates compliance even before final completion of their work.

In terms of ambient lead concentration, the EPA and State standards are nearly identical. The State is currently working with EPA and ASARCO to determine what the specific sources of lead are in the East Helena area. This study allows the Department to utilize the most cost-effective measures for controlling the problem.

Billings Industries

Although there have been recorded violations of the Montana and EPA standards for sulfur dioxide in the Billings area, most of the companies have undergone significant changes in their operation in the past year or two. The Department and the industries are just embarking on a major 16-month study to determine if violations still exist and to determine the proper control measures that may be required. Quite to the contrary of Mr. Blomeyer's testimony before the Select Committee on Economic problems, who suggested that an across the board reduction may be necessary for each plant, the Bureau has no intention of using that type of technique. The Department and the industries will discuss what, where, and who should be required to make reductions in their operation ONLY if such a reduction is necessary. Therefore, any statement that the Montana standards will impose additional costs is nothing but speculation at this time.

Anaconda-Butte

The particulate standard is in violation in Butte for which Anaconda Mining Company is a partial contributor. The state is conducting an analysis to determine the impact of Anaconda Co. on the particulate levels in Butte. The State and Anaconda are beginning to work on a joint

effort to answer the question so we can each pool our resources.

The solution to the particulate problem in Butte will depend on the results of these studies.

In summary, the few cases of ambient noncompliance by industry, measures currently completed or nearing completion are expected to allow compliance with both federal and state air quality standards.

NEW INDUSTRY

I don't think it would be inaccurate to say that the effect of the Montana Ambient Air Quality Standards on new industry is at least a majority of the time next to nothing. As has already been pointed out, BACT and NSPS are required. In addition to these two items, the prevention of significant deterioration (PSD) rules also apply. These three sets of requirements, which are federal requirements, in almost every instance are far more stringent than the Montana Ambient Air Quality Standards. An example might be the Colstrip generation units. Existing data from Colstrip 1 and 2 combined with the predictions of the effects of Colstrip 3 and 4 show that the concentrations will be much less than the ambient air quality standards. As a matter of fact, the combined plants of 1 through 4 will not violate the pristine air status of the Northern Cheyenne tribe, 19 air miles away.

One final major issue that must be raised through all of these discussions is the issue of human health. Despite all of the statistics and analysis of relative stringency and the like, the overriding issue is that of protecting human health. The Department feels quite frankly that the Montana standards are superior to the federal standards. The federal standards were adopted ten years ago and as you might expect there have been many studies conducted on this issue since that time. The Department's analysis of the data is more up-to-date than the federal standards and generally reflect the more recent literature.

Certainly the Montana Air Pollution Study, which was funded by the 1977 and 1979 Legislatures, should not be ignored. Although there are many interesting portions of the study, one of the most interesting found that air pollution levels present today in most Montana cities cause children living in these higher-polluted cities to have poorer lung abilities than their counterparts in less polluted cities. Missoula and Anaconda children, for example, had lower pulmonary abilities than children living in Great Falls. Socio-economic status, etc., was factored into the study and found not to cause the differences seen among the communities. What is of particular importance here is that the effects are real and exist today, in our towns. The other point of significance is that they affect the population as a whole, and not just a small segment.

Let me briefly summarize my statement by suggesting to you that these standards should not become the fall guy for the frustration felt by many people concerning government regulations. The air quality regulations have been consistent for the past 13 years and have only slightly changed from previous standards.

It is also ironic that after listening to the complaints of people after the shutdown of a smelter from a company boardroom in Los Angeles, that we are now suddenly willing to make the same commitment for standards designed to protect public health. I find it difficult to believe that the political hammering that goes on in the labyrinth of Washington will be attuned to Montana's special needs. NO!!

Along the same line, the Department feels that this bill is adding another layer of regulation onto regulation. If the Department were to propose a new standard in light of an industry's wishing to locate in Montana but for which no existing standard exists, would it be fair to that company to ask it not only to wait for the Board's rule-making procedures, but also to wait for the decision of the Legislature before construction could begin? In addition, is the Legislature itself prepared to review the hundreds of pages of testimony required before making a decision?

I believe that the Department has made a reasonable case suggesting that the current levels are workable and that the Department and Board are willing to listen to testimony and change regulations where needed. There is little to no effect of these standards on new industry, and their effects on existing industry have already been outlined. I therefore respectfully request that you recommend that HB 334 not be passed.

Thank you for your time and patience in listening to this complicated issue. I am available for questions.

AIR QUALITY STANDARDS

Comparisons of Surrounding States and Canada

0 = equal to EPA
 + = stronger than EPA
 - = weaker than EPA

State/Country	Sulfur Dioxide			Total Suspended Particulates			Fluoride*	
	.50 1-hour .10 24-hour .02 annual average	18 excursions 1 excursion average	0 + +	200 24-hour 75 annual arithmetic average	- -	20 ppm in forage 1-month		
Montana								
North Dakota	.28 1-hour .10 24-hour .02 annual average		+ + +	150 24-hour 60 annual geometric average	0 0	None		
South Dakota	.50 3-hour .14 24-hour .03 annual average	1 excursion 1 excursion average	0 0 0	150 24-hour 60 annual geometric average	0 0	None		
Wyoming	.50 3-hour .10 24-hour .02 annual average	1 excursion 1 excursion average	0 + +	150 24-hour 60 annual geometric average	0 0	25 ppm in forage 1 ppb 24-hour (air)		
Idaho	.50 3-hour .14 24-hour .03 annual average	1 excursion 1 excursion average	0 0 0	Same as Federal	0 0	40 ppm in forage annual 80 ppm in forage 1-month		
Washington	.40 1-hour .10 24-hour .02 annual average	1 excursion 1 excursion average	+ + +	150 24-hour 60 annual geometric average	0 0	40 ppm in forage annual 60 ppm in forage 3-month 80 ppm in forage 1-month 3 ppb 24-hour (air) 0.9 ppm 30-day (air)		
California	.50 1-hour .05 24-hour (only when TSP or ozone are violated)		+ +	100 24-hour 60 annual geometric average	+ 0	None		
Canada	.34 1-hour max: acceptable .17 1-hour max: desirable .31 24-hour max: tolerable .17 24-hour max: acceptable .06 24-hour max: desirable		+ + + + +	120 24-hour max, acceptable 70 annual average max, acceptable annual average max, acceptable annual average max, acceptable	+ + + + +	*There are no Federal ambient standards, only emission standards.		

APPENDIX C

+ = Somewhat more stringent than Federal Standard
 O = Identical or nearly identical to Federal Standard
 * = No Federal Standard

TABLE 1. PROPOSED AND EXISTING AMBIENT AIR REGULATIONS

Pollutant	Federal Standard	Existing Montana Ambient Air Rule	Montana Ambient Standard Proposed in Draft FIS	Montana Ambient Standard Proposed in Final FIS	Montana Ambient Standard Adopted by Board	
Sulfur Dioxide	0.03 ppm annual average 0.14 ppm 24-hour average not to be exceeded more than once a year 0.5 ppm 3-hour average not to be exceeded more than once a year	0.02 ppm maximum annual average 0.10 ppm 24-hr average not to be exceeded over 1% of the days in any 3-month period -- 0.25 ppm 1-hr average not to be exceeded for more than one hour in any 4 consecutive days	0.02 ppm annual average 0.10 ppm 24-hour average not to be exceeded more than once a year 0.40 ppm hourly average not to be exceeded more than once a year	0.02 ppm annual average 0.10 ppm 24-hour average not to be exceeded more than once a year -- 0.5 ppm 1-hr average not to be exceeded more than once a year	0.02 ppm annual average 0.10 ppm 24-hour average not to be exceeded more than once a year -- 0.5 ppm 1-hr average not to be exceeded more than once a year	+ + +
Total Suspended Particulate	75 micrograms per cubic meter, geometric annual average 260 ug/m ³ , 24-hr average not to be exceeded more than once a year	75 ug/m ³ annual geometric mean 200 ug/m ³ not to be exceeded more than 1% of the days a year	75 ug/m ³ annual average 200 ug/m ³ 24-hr average not to be exceeded more than once a year	75 ug/m ³ annual average geometric 200 ug/m ³ 24-hr average not to be exceeded more than once a year	75 ug/m ³ annual average arithmetic (1) 200 ug/m ³ 24-hr average not to be exceeded more than once a year	O +
Carbon Monoxide	35 ppm, 1-hr average not to be exceeded more than once a year 9 ppm, 3-hr average not to be exceeded more than once a year	(2) -- --	9 ppm 8-hr average not to be exceeded more than once a year 17 ppm hourly average, not to be exceeded more than once a year	9 ppm 8-hr average not to be exceeded more than once a year 23 ppm hourly average, not to be exceeded more than once a year	9 ppm 8-hr average not to be exceeded more than once a year 23 ppm hourly average, not to be exceeded more than once a year	O +
Photochemical Oxidants (Ozone)	0.12 ppm hourly average not to be exceeded on more than one day a year	--	0.10 ppm hourly average, not to be exceeded more than once a year	0.10 hourly average, not to be exceeded more than once a year	0.10 hourly average, not to be exceeded more than once a year	+
Nitrogen Dioxide	0.05 ppm annual average --	--	0.05 ppm annual average 0.17 ppm hourly average, not to be exceeded more than once a year	0.05 annual average 0.30 ppm, hourly average, not to be exceeded more than once a year	0.05 annual average 0.30 ppm, hourly average, not to be exceeded more than once a year	O *
Hydrogen Sulfide	--	0.03 ppm 5-hour average, not to be exceeded more than twice in any 5 consecutive days 0.05 ppm 1-hour average, not to be exceeded over twice a year	0.10 ppm hourly average, not to be exceeded more than once a year	0.05 ppm hourly average, not to be exceeded	0.05 ppm hourly average, not to be exceeded	*
Lead	1.5 ug/m ³ , calendar quarter average	5.0 ug/m ³ , 30-day average	1.5 ug/m ³ calendar quarter average	1.5 ug/m ³ , 3-month average	1.5 ug/m ³ , 3-month average (3)	O
Fluoride	--	1.0 ppb, 24-hr average, total fluoride (as HF) 0.3 micrograms per square centimeter per 24 days (deposits)	1.0 ppb 24-hr average 0.30 ppb 30-day average 0.11 ppb growing season average	1.0 ppb 24-hr average, gaseous fluoride 0.3 ppb 30-day average	No Standard Adopted	
Follar Fluoride	--	35 ppm, dry weight basis	30 ug/n, dry weight basis	35 ug/n in forage, annual average, no monthly average to exceed 50 ug/g	20 ug/g monthly average	*
Settled Particulate (Dustfall)	--	15 tons/so mile/month, 3 month average in residential areas 30 tons/so mile/month 3 month average in heavy industrial areas	10 gm/m ² 30 day average	10 gm/m ² , 30-day average	10 gm/m ² , 30-day average	*
Visibility	Federal law requires each state to have some type of program		Particle scattering coefficient of 2 x 10 ⁻⁵ per meter annual average	Particle scattering coefficient of 3 x 10 ⁻⁵ per meter annual average	Particle scattering coefficient of 3 x 10 ⁻⁵ per meter annual average	*
Reactive Sulfur (Sulfation)	--	0.25 milligrams sulfur trioxide/100 sq. centimeter/day, maximum annual average 0.50 milligrams sulfur trioxide/100 sq. centimeters/day, max. for any 1-month period	Dropped by Board of Health			
Suspended Sulfate	--	4 ug/m ³ of air, max. allowable annual avg. 12 ug/m ³ of air, not to be exceeded more than 1% of the time	Dropped by Board of Health			
Sulfuric Acid Mist	--	4 ug/m ³ of air, max. allowable annual average 12 ug/m ³ of air, not to be exceeded more than 1% of the time 10 ug/m ³ of air, hourly average, not to be exceeded over 1% of the time	Dropped by Board of Health			
Beryllium	--	0.01 ug/m ³ , 30-day average	Dropped by Board of Health			
Arsenic	--	--	--	Deferred for further study	Deferred for further study	
Cadmium	--	--	--	Deferred for further study	Deferred for further study	

1. Use of arithmetic mean rather than geometric mean gives more accurate results but renders MT standard slightly more stringent than Federal.
2. In August of 1980, EPA proposed new carbon monoxide standards of 9 ppm (8-hour average) 25 ppm (1-hour average).
3. Use of a 3-month average (so-called "rolling 90" average) rather than a calendar quarter average renders monitoring aspect of the MT standard slightly more stringent than that of the Federal standard.