

**Lincoln County**  
**City-County Board of Health Agenda**  
**6:00 PM, May 8, 2019**  
**Lincoln County Courthouse**

- 1. Call to Order**
- 2. Approval of Minutes**
  - 04/10/2019 Minutes
- 3. New Business**
- 4. Program Reports:**
  - **Public Health**
    - General update
    - Personnel update
    - Troy public schools nursing update
    - Teen pregnancy prevention program
  - **Environmental Health**
    - Outdoor burning update
    - Personnel update
  - **Solid Waste and Recycling**
    - E-waste collection
  - **ARP**
    - General update
- 5. Focus Area Liaisons:**
  - **Superfund Sites**
    - Groundwater Site - Controlled Groundwater Area update
    - Asbestos Site - Property Evaluation Notification Ordinance Introduction
- 6. Health Officer Report**
- 7. Old Business**
  - Panoramic View dust complaint
- 8. Public comment**
- 9. Adjourn**

04.10.2019 BOH meeting minutes  
6:00 PM Courthouse

<b>Board Members Present:</b> Jan Ivers, George Jamison (by phone), Mark Peck, Sara Mertes, Laura Crismore, Deb Armstrong, Maggie Anderson
<b>Absent:</b>
<b>LCHD Staff:</b> Jennifer McCully, Jake Mertes, Virginia Kocieda, Jinnifer Mariman (by phone), Dr. Black
<b>Public:</b> Arlene Elletson, Cheri Dunbar, Martin Dunbar, DC Orr, Luke Hollister (The Western News), Ray Stout (Kootenai Valley Record), Scott Lennard, Patti Lennard

<b>Agenda:</b>	<b>Discussion:</b>	<b>Action Item:</b>
1. Call to order	Called to order at 6:00 PM by Jan Ivers	
2. Approval of Minutes	<b>March minutes approval:</b> Laura Crismore made a motion to approve the March 13, 2019 Board of Health minutes, Mark Peck seconded. Motion passed unanimously.	
3. New Business	No new business	
4. Program Reports:		
Public Health	<b>General update:</b> The Board of County Commissioners approved hiring for a full-time Local Collaborative Coordinator for the Headwaters Foundation grant.  <b>Rabies:</b> The rabies policy was updated to define the roles of the health department and the sheriff's office. Mark made a motion to approve the Rabies Control Policy and Procedure, Sara seconded. Motion passed unanimously.	
Environmental Health	<b>Outdoor burning update:</b> Jake Mertes updated the Board on outdoor burning in the Libby area. People are getting their permits to burn in the Libby area. There were four larger management burns so far this year. There has been an opportunity to burn everyday since burning opened.	
ARP	<b>General Update:</b> Virginia Kocieda updated the Board on the ARP program. The ARP is working with DEQ and EPA on Operations and Maintenance elements. ARP received the data with property folders and photos from EPA. EPA is working on extending the cooperative agreement grant with Lincoln County to fund ARP thru December 2020.	
5. Focus Area Liaisons	<b>Superfund Sites:</b> Libby Asbestos Superfund Oversight Committee meeting: Mark gave an overview of the March 26 meeting.	The department will draft a meeting notice for the groundwater meeting.

04.10.2019 BOH meeting minutes  
6:00 PM Courthouse

	<p>Facilitator: The Board of County Commissioners funded a professional facilitator to assist the operations and maintenance planning and institutional controls workgroups.</p> <p>Libby Groundwater Superfund Site/Controlled Groundwater Area public informational meeting will be on April 23<sup>rd</sup> at 6:30 PM at the Ponderosa Room.</p>	
<p>6. Health Officer Report</p>	<p>Dr. Black discussed research that was released from the Minnesota Department of Health regarding a cohort of people that worked at a plant and exposure to LA containing vermiculite that came from Libby asbestos exposure.</p>	
<p>7. Old Business</p>	<p><b>Panoramic View dust complaint update:</b> Letters have been mailed out to invite all property owners in the subdivision to attend a meeting later this month to discuss proposed compliance plan. This meeting is being organized by Commissioner Bennett because the proposal requires county involvement. Hopefully negotiations keep moving forward and the Board will not need to take additional action. If negotiations stall, the complaint will come back to the Board for further action.</p>	
<p>8. Public Comment</p>	<p>No public comment</p>	
<p>9. Adjournment</p>	<p>Next meeting May 8 at 6:00 PM</p> <p>Meeting adjourned at 6:50 PM</p>	

Chair, Board of Health

Date

Secretary, Board of Health

Date

## Libby/Troy Amphibole Asbestos Property Evaluation Notification

Your Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Address and/or Location Description: \_\_\_\_\_

Are you the property owner? Y/N \_\_\_\_\_

Work plan description (ie wall demolition in north bedroom, ceiling drop in kitchen)

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Planned Start Date: \_\_\_\_\_

Are you planning exterior excavations? If so Where? (Reminder that a UDIG still must be submitted before and excavation in order to locate utilities. UDIG can be reached by calling 811)

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\*This form is used to evaluate your property for the presence of Libby Amphibole Asbestos (LA) that may be left sealed in place in buildings or at depth on the property. The Asbestos Resource Program (ARP) will evaluate the documentation of LA on your property and will respond within 3 working days of the status of your property. ARP may request to do drilling and scoping of walls before demolition.

\*If you have had an accidental spill of vermiculite insulation and need an emergency visit or if you have any questions please call 406-291-5335

\*This evaluation does NOT meet the requirement for asbestos inspection required by the state of Montana for demolition. The state regulation applies to contractors and facility owners. It generally does not apply to homeowners. More information on the requirements can be found [here](#)

\*If LA is found in the area where work is going to be conducted, ARP will provide resources on how to handle the material safely and may provide contracted support for removal/abatement.

\*This evaluation does NOT meet the requirement for asbestos inspection required by the state of Montana for demolition. The state regulation applies to contractors and facility owners. It generally does not apply to homeowners. More information on the requirements can be found [here](#)

I understand that this evaluation form does not meet the requirements for asbestos inspection found in state code.

**HEALTH AND ENVIRONMENT REGULATIONS**  
**CHAPTER 1: Control of Air Pollution**  
**Subchapter 2: Libby Amphibole (LA) Property Evaluation Notification (PEN)**  
Revised March 06, 2019

I. REGULATION, AUTHORITY AND PURPOSE

- A. The City/County Board of Health for Lincoln County (Board of Health) was created as the Local Board of Health for Lincoln County by an Inter-local Agreement between the City of Libby and Lincoln County with authority under Mont Code Ann. § 50-2-116(2)(c)(v)(A) to enact public health regulations to protect public health, safety, and welfare and to facilitate Institutional Controls selected by the United States Environmental Protection Agency (USEPA) for the Libby Asbestos Superfund Site;
- B. The Board of Health finds there is a threat to public health, safety, and welfare posed by the environmental conditions that led the USEPA to designate the Libby Asbestos Superfund Site.
- C. The Board of Health collaborates with the Montana Department of Environmental Quality (DEQ) and the USEPA to continue to protect public health, safety, and welfare by ensuring that the Libby Asbestos Superfund Site remedies remain protective and LA asbestos is properly managed.
- D. The Lincoln County Asbestos Resource Program (ARP) is a Board of Health directed public health program that was established in 2012 with the mission of reducing exposure to LA asbestos that is found within the Libby Asbestos Superfund Site and the surrounding areas of Lincoln County. A key goal of the Board of Health directed ARP is to minimize burden on the community members themselves. The program was developed under the guidance of the Board of Health and is currently funded through a cooperative agreement/grant from the USEPA. Future funding of cooperative agreements is expected from DEQ for future Operation and Maintenance of the Site.
- E. The Board of Health has chosen to implement this Property Evaluation Notification Regulation pursuant to its authority under Mont Code Ann. § 50-2-116(2)(c)(v)(A) to protect public health, safety, and welfare.

II. GENERAL PROVISIONS

- A. Title: These regulations shall be known as the "LIBBY AMPHIBOLE (LA) ASBESTOS PROPERTY EVALUATION NOTIFICATION (PEN)".
- B. Authority: Authorization for these regulations is through Montana Code Annotated (MCA) § 50-2-116(2)(c)(v)(A) .
- C. Purpose: The purpose of this regulation is to reduce the possibility of the public's exposure to LA asbestos as a result of Applicable Activities, as defined in Definitions in Section F.2 of this regulation. These activities shall be referred to as Applicable Activities. This PEN regulation is focused on providing LA asbestos property information, data, education, and evaluations to protect the public while performing Applicable Activities. Note that this PEN regulation is separate from the Montana

Asbestos Control Act and DEQ Asbestos Control Program requirements and does not replace or supersede the associated regulations on asbestos in Montana.

D. Contingent Applicability: Implementation and execution of this regulation is dependent upon the existence and continued functionality and funding of the ARP. Similarly, success of the ARP is highly dependent upon the existence of this regulation. If the ARP ceases to exist or is unable to effectively function from lack of cooperative agreement funding or other reasons, then this regulation will be suspended until the ARP, or other BOH designated organization, is functional and able to again support implementation and execution. Such suspension shall not be effective until the Board of Health affirmatively votes to suspend this regulation.

E. Jurisdiction: This LA PEN regulation governs activities within the Libby Asbestos Superfund Site National Priorities List boundary which is composed of eight Operable Units. Jurisdiction includes Operable Units 1, 2, 4, 5, and 7. Operable Units 1 and 2 as described in the *Record of Decision for Libby Asbestos Superfund Site The Former Export Plant Operable Unit 1* (EPA, May 2010a) and *Record of Decision for Libby Asbestos Superfund Site The Former Screening Plant and Surrounding Properties Operable Unit 2* (EPA, May 2010b), and as described in the *Record of Decision for Libby Asbestos Superfund Site – Libby and Troy Residential and Commercial Properties, Parks and Schools, Transportation Corridors, and Industrial Park – Operable Units 4 through 7* (EPA, February 2016). Operable Unit 3 (the Former Libby Vermiculite Mine), Operable Unit 6 (Burlington Northern Santa Fe Railroad and Rail corridors) and Operable Unit 8 (Roadways) are excluded. Operable Units 1 through 8 are located within Lincoln County, Montana. Descriptions of the jurisdictional areas included within each Operable Unit governed by this PEN regulation are detailed in each respective Record of Decision and summarized below:

1. Operable Unit 1 is the former Export Plant, and is situated on the south side of the Kootenai River, just north of the downtown area of the City of Libby, Montana. OU1 includes the embankments of Montana Highway 37, the former Export Plant, and the Riverside Park. The property is bounded by the Kootenai River on the north, Highway 37 on the east, the Burlington Northern Santa Fe railroad thoroughfare on the south, and the State of Montana property on the West (EPA, May 2010a). These areas and boundaries are shown the Operable Unit 1 Record of Decision Exhibit 2-2 (EPA, May 2010a).
2. Operable Unit 2 includes area impacted by contamination released from the former Screening Plant. These areas include the former Screening Plant, the Flyway property, a privately-owned property, and the Rainy Creek Road Frontage and Highway 37 right-of-way adjacent to Rainey Creek Road (EPA, May 2010b). These areas and boundaries are shown in the Operable Unit 2 Record of Decision Exhibit 2-2 (EPA, May 2010b).
3. Operable Unit 4 is called Libby Residential/Commercial areas. Operable Unit 4 is defined as the residential, commercial, industrial (not associated with Grace Mining Operations), and public properties, including schools and parks, in and around the City of Libby (EPA, February 2016). The boundaries for Operable Unit 4 are shown

in Exhibit 1-2, Figure 1-2, and Figures 5-2 through 5-16 in the Operable Unit 4 through 8 Record of Decision (EPA, February 2016).

4. Operable Unit 5 is called the Former Stimson Lumber Company. Operable Unit 5 is defined geographically by the parcel of land that included the former Stimson Lumber Company. OU5 is bounded by the high bank of Libby Creek to the east, the Burlington Northern Santa Fe railroad to the north, and properties within Operable Unit 4 to the south and west (EPA, February 2016). The boundaries for Operable Unit 5 are shown in Exhibit 1-2, Figure 1-2, and Figures 5-17a through 5-17b in the Operable Unit 4 through 8 Record of Decision (EPA, February 2016).
5. Operable Unit 7 is called Town of Troy, and is defined as the residential, commercial, and public properties in and around the Town of Troy, Montana located 20 miles west of downtown Libby (EPA, February 2016). The boundaries for Operable Unit 7 are shown in Exhibit 1-2, Figure 1-2, and Figures 5-21 through 5-25 in the Operable Unit 4 through 8 Record of Decision (EPA, February 2016).

F. Definitions: The following definitions shall apply in the interpretation and enforcement of this regulation. The word "shall" as used in this regulation indicates a mandatory requirement.

1. LA asbestos is specific to the form of naturally occurring amphibole asbestos comprised of a range of mineral types and morphologies, and associated with the Libby vermiculite deposits in the region near the Libby Asbestos Superfund Site (EPA, February 2016). LA asbestos forms durable, long, thin structures that are generally respirable, can reasonably be expected to cause disease, and is considered to be the contaminant of concern at the Libby Asbestos Superfund Site (EPA, February 2016).
2. "Applicable Activities" means activities performed on real property to include:
  - a. Excavation, grading, and landscaping;
  - b. Interior or exterior demolition, repair, modification, disturbance of material, or remodeling to permanent or temporary structures;
  - c. Development of subdivisions or previously undeveloped land.
3. "LA Asbestos Property Evaluation" means a required evaluation, performed by the ARP, to include evaluation of data and information related to LA asbestos based on the notification by a property owner or interested party who has submitted a PEN due to planned Applicable Activities on a property within the jurisdiction (Section E above). The LA Asbestos Property Evaluation will be performed by the ARP to provide information relative to the potential for LA Asbestos to be encountered for the proposed work to be performed as detailed. This regulation details the PEN notification requirements and the associated LA Asbestos Property Evaluation elements to be provided in an effort to protect the remedy and public health.
4. "Days" means business days (i.e., Monday, Tuesday, Wednesday, Thursday, and Friday), excluding holidays observed by Lincoln County and ARP.

5. "Person" is any individual, institution, partnership, business, corporation, association, or other private or government entity.
6. "Property" is real property that is fixed property, principally land and structures. This regulation applies to the Applicable Activities on real property within the jurisdiction.

### III. LIBBY AMPHIBOLE ASBESTOS PROPERTY NOTIFICATION PROCESS:

LA Asbestos Property Evaluation Notification (PEN) Process Requirements: Prior to performing any Applicable Activities at a property within the above defined jurisdiction, a person is required to notify the ARP of the proposed Applicable Activities through the PEN process.

#### A. Applicability Specifics:

1. In addition to the defined Applicable Activities, the following activities within the jurisdiction also require a PEN:
  - a. These requirements are applicable to modification or construction of waste water systems requiring disturbance of surface or subsurface soils. Waste water system design, construction, and permits are authorized by separate entities; however, modifications or new permits within the jurisdiction will be subject to the PEN process prior to wastewater permitting or permit modifications.
  - b. These requirements are applicable to permitting of subdivisions. Subdivision definitions, requirements, and permits are authorized by separate entities and regulations; however, modifications or new permits within the jurisdiction will be subject to the PEN process prior to Subdivision permitting or permit modifications.
  - c. These requirements are applicable to government entities performing Applicable Activities on real property within the jurisdiction; however, due to funding and jurisdictional restraints, the BOH may only provide information on the past LA asbestos investigation(s) and/or removal activities performed on the property in question. The government entity is encouraged to continue to share future LA asbestos activity evaluations and assessments with the BOH to maintain a current, and effective database of LA asbestos-related activities.
2. Exclusions to PEN Process include the following:
  - a. Remodeling activities that are cosmetic in nature (e.g. wallpaper installation or removal, carpet installation or removal, painting, installing built-in furniture, etc.) that will not disturb the existing interior flooring (excluding



carpet), interior walls, ceilings, structural elements, exterior siding, roofing, foundations, utility penetrations or insulation; and

- b. Exterior landscaping or remodeling that will not disturb surface or subsurface soil (e.g., concrete repair/staining, replace slats on decking, staining or painting fencing, etc.); or
  - c. Emergency response activities where the excavation, modification, or demolition activities are conducted in response to a property emergency. In this case, the ARP shall be notified the next business day to determine if a post-facto PEN notification or inspection is required.
- B. PEN Requirements: The notification of intent to perform Applicable Activities for a property shall be made to the ARP by the owner of the property, or the owner's authorized agent, on a form provided by the ARP (electronic or hard-copy) and/or through the Montana UDIG utility locate request process.
1. Notification for those Applicable Activities regulated by Montana UDIG through MCA Title 69, Chapter 4, Part 5 are automatically notified to the ARP when submitted through the Montana UDIG notification process and will serve as compliance with this regulation. If activities are limited to those regulated by UDIG then no additional PEN-specific ARP form is required.
  2. All other Applicable Activities within the jurisdiction will require preparation and submittal of the ARP PEN form signed and dated by the applicant, and will include the following information, at a minimum:
    - a. The name, address, email address, and telephone number of the person who owns the real property;
    - b. The name, address, email address and telephone number of the person submitting the PEN.
    - c. The physical address of the property or a legal description if a physical address is not assigned where the work will take place;
    - d. The name, address, email address, and phone number of the person who will be in responsible charge of performing the activities, if it is not the owner of the real property. If a contractor is to be used, provide their name, address, telephone number, and any asbestos related credentials or certifications;
    - e. Confirmation that U-Dig has been notified, if applicable; and
    - f. A description of the proposed activity, including:

- i. The general nature and extent of the project including the project objective;
  - ii. Estimated location, mass, area, or volume of the media or building materials that will be disturbed or removed;
  - iii. Any mitigating or best management practices that are planned to reduce or eliminate the exposure to LA asbestos and/or vermiculite, if anticipated, and measures to reduce the generation of dust; and
  - iv. Planned activities for transporting and disposing of building materials, soil, waste, disturbed materials, and potential LA asbestos and/or vermiculite.
- C. Fee: No fee will be associated with a PEN for the owner or person submitting the notification. Costs associated with the PEN program and the subsequent ARP LA Asbestos Property Evaluation will be funded by cooperative agreements for Operation and Maintenance activities associated with the Libby Asbestos Superfund Site.
- D. PEN and LA Asbestos Property Evaluation Process: PEN forms shall be submitted to ARP and a subsequent LA Asbestos Property Evaluation conducted. In addition to the "ARP Required Response" outlined in Section III.E. below, ARP is authorized to do none, any, or all of the following activities in response to a PEN submission:
  1. Collection of prior information related to LA investigations, inspections, site records, evaluations, designs, remedies, communications, etc. as may be available from EPA documents and database, DEQ database, or other accessible sources;
  2. Site inspection, whether conducted from available maps/figures or through an ARP-directed site visit, of the subject property;
  3. Discussion with owner, PEN applicant, or contractor representatives related to property conditions and proposed activities;
  4. An evaluation of prior information and site observations in relation to former and current land use, existing conditions, future land use, and proposed activities at the property;
  5. Summarization of collected information, site observations, evaluations;
  6. Recommendations for Best Management Practices, available resources to support the activity, and informational/educational materials;
  7. Follow up site visit, if applicable;
  8. Dialog and communication summary;

9. Assistance in procuring a remediation contractor, if applicable;
10. Guidance related to possible mitigation of expenses for the incremental cost to the project attributable to the presence of LA;
11. Updates to property evaluation and pertinent applicable activities or inspections will be uploaded and tracked by ARP in the Libby Superfund Site O&M property database.

E. ARP Required Response:

1. Notifications shall be submitted at least two (2) full business days prior to the initiation of Applicable Activities. Once notified, the ARP has two full business days to perform the LA Asbestos Property Evaluation. Day one begins the next operating business day after the PEN form submittal to the ARP.
2. Once a complete PEN form is submitted, the ARP shall review the notification and perform the ARP LA Asbestos Property Evaluation to assess the potential for LA-asbestos exposure based on previous LA asbestos evaluations, remedies, and inspections. If the PEN notification is incomplete, the ARP may request additional information prior to performing or completing their Evaluation, and may require additional time for review.
3. Notifications to ARP are separate from, and not limited to, other required notifications under city, county, state, or federal law.

F. Evaluation Reporting: Upon completion of the LA Asbestos Property Evaluation, the ARP will communicate the findings to the applicant and/or owner, and document the communication.

G. Penalties: Blatant violations (including willful and wanton conduct) of any provision of this regulation is counter to the USEPA Libby Asbestos Superfund Site remedy, operation and maintenance, and institutional control measures. Violations of this notification could result in exposure to or spreading of LA contamination and may be subject to enforcement provisions by the BOH under MCA § 50-2-124 or any other applicable provision, or by applicable county (i.e., Lincoln County), state (i.e., Montana Department of Environmental Quality), or federal (i.e., Environmental Protection Agency and US Army Corps of Engineers) regulatory entities.

H. Effective Date: The requirements of this regulation shall be effective date to be determined date of adoption by the City/County Board of Health for Lincoln County.

I. References:

EPA, 2010a. *Record of Decision for Libby Asbestos Superfund Site, The Former Export Plant Operable Unit 1*. Libby Asbestos Site, Libby, Montana. Prepared for the EPA by CDM Federal Programs Corporation. EPA Document: 1154081.

EPA, 2010b. *Record of Decision for Libby Asbestos Superfund Site, The Former Screening Plant and Surrounding Properties Operable Unit 2*. Libby Asbestos Site, Libby, Montana. Prepared for the EPA by CDM Federal Programs Corporation. EPA Document: 1154082.

EPA, 2016. *Record of Decision for Libby Asbestos Superfund Site – Libby and Troy Residential and Commercial Properties, Parks and Schools, Transportation Corridors, and Industrial Park – Operable Units 4 through 7*. Libby Asbestos Site, Libby, Montana. Prepared for the EPA by CDM Federal Programs Corporation. EPA Document: 1563024.