

Lincoln County
City-County Board of Health Agenda
6:00 PM, March 13, 2019
Lincoln County Courthouse

- 1. Call to Order**
- 2. Approval of Minutes**
 - 2/13/19 Minutes
- 3. New Business**
 - CARD clinic letter
 - Health Department Annual Report
- 4. Program Reports:**
 - **Public Health**
 - General Update
 - Tuberculosis Exercise
 - Procedure for investigating foodborne illness & food-related injury
 - Best Beginnings Coalition
 - **Environmental Health**
 - Outdoor burning update
 - **Solid Waste and Recycling**
 - Gatekeepers/Fenced sites schedule
 - **ARP**
 - Joint Site Inspection/ Data Transfer
 - OU2 Delisting Comments
- 5. Focus Area Liaisons:**
 - **Superfund Sites**
 - Property Evaluation Notification
 - Asbestos Site – Follow up communication with Region 8
 - Libby GW Site - Controlled Groundwater Area informational meeting, April 23
- 6. Health Officer Report**
- 7. Old Business**
 - Panoramic View dust complaint
- 8. Public comment**
- 9. Adjourn**

02.13.2019 BOH meeting minutes
6:00 PM Courthouse

Board Members Present: Jan Ivers, George Jamison, Mark Peck, Maggie Anderson, Laura Crismore
Absent: Sara Mertes, Eureka Representative
LCHD Staff: Bryan Alkire, Noah Pyle, Kathi Hooper, Jennifer McCully, Trista Gilmore, Virginia Kocieda, Jinnifer Mariman (by phone), Dr. Black
Public: Scott Lennard, Patti Lennard, Arlene Elletson, Cheri Dunbar, Martin Dunbar, DC Orr, Rima Austin (The Western News), Rob Dufficy (Libby City Council)
Other: Marcia Boris, Lincoln County Attorney

Agenda:	Discussion:	Action Item:
1. Call to order	Called to order at 6:03 PM by Jan Ivers	
2. Approval of Minutes	January minutes approval: Mark Peck made a motion to approve the 01/09/2019 Board of Health minutes, George Jamison seconded. Motion passed unanimously.	
3. New Business	<p>New Eureka member: The Eureka City Council appointed Debra Armstrong to be the new Eureka representative.</p> <p>Update Operating Procedure #2: updates to the public comment procedure. Each member wishing to give public comment will state their name clearly. All remarks will be addressed to the Board not individual members or staff.</p> <p>George made a motion to approve the updated Operating Procedure #2, Laura Crismore seconded. Motion passed unanimously.</p> <p>Focus Area Liaisons: George reminded the Board about the need for Focus Area Liaisons. The areas needing Focus Area Liaisons are public health, environmental health and solid waste. Maggie Anderson is interested in public health and environmental health and Laura is interested in public health.</p>	
4. Old Business	Panoramic View dust complaint: Marcia Boris described the next steps on the dust complaint. Responsible property owners within the Panoramic View Subdivision will be notified by Dr. Black, Health Officer, that they must take steps to address the issue between now and the next Board meeting. If that does not happen then an abatement order will be issued by the Health Officer.	
5. Program Reports: Public Health	General update: Jenn McCully influenza numbers are similar to last year at this time. No deaths at this time due to influenza. DPHHS released a grant to extend the Best Beginnings	

	<p>Coalition. Lincoln County will be receiving \$60,000 to hire a full-time coordinator for that coalition.</p> <p>Washington DC update: Trista Gilmore and Amy Fantozzi went to Washington DC for a CADCA conference. Trista gave the Board an overview of the conference.</p>	
<p>Environmental Health</p>	<p>Revolving septic loan: Kathi Hooper informed the Board about the new revolving septic loan program. County received a DNRC grant for \$40,000 plus \$4,000 in matching funds. This funding will be available to homeowners to repair a septic system or connect to city sewer.</p>	
<p>Solid Waste and Recycling</p>	<p>Expansion Application: County completed the landfill license expansion application to include the asbestos cell. The application is going into a 30-day comment period and then an environmental assessment will be issued by DEQ.</p> <p>Compactor rebuild: Bryan Alkire updated the Board on the compactor rebuild. A new compactor costs \$700,000 so the county decided on a complete rebuild of the existing compactor for \$135,000 with a 5-year warranty.</p>	
<p>ARP</p>	<p>Noah Pyle gave the updates for ARP.</p> <p>Personnel update: Virginia Kocieda accepted the ARP Director position.</p> <p>Joint site inspection: The EPA and DEQ will conduct a joint site inspection before the Operation and Function phase of superfund. DEQ has asked that ARP assist with data review for this project.</p> <p>Data transfer: EPA will be transferring data to the DEQ. ARP will have access to the data.</p> <p>Property Evaluation Notification: The ARP has submitted a draft and idea to Trihydro. The IC Steering Committee will review. The IC Steering Committee is in March.</p>	
<p>6. Focus Area Liaisons</p>	<p>Superfund Sites: Asbestos – Trihydro expenses total \$5,000.</p> <p>Groundwater – Awaiting additional input from Port Authority and City of Libby and are planning a meeting in March or April for an informational session.</p>	

02.13.2019 BOH meeting minutes
6:00 PM Courthouse

7. Health Officer Report	No report	
8. Public Comment	No public comment	
9. Closed Session	<p>Discussion re: civil options and strategies in light of EPA Final Determination: CLOSED – ATTORNEY CLIENT PRIVILEGED</p> <p>Meeting is closed subject to MCA 2-3-203 subsection 4. (4)(a) Except as provided in subsection (4)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.</p>	
10. Adjournment	<p>Next meeting March 13 at 6:00 PM</p> <p>Meeting adjourned at 7:39 PM</p>	

Chair, Board of Health

Date

Secretary, Board of Health

Date

Lincoln County
Procedure for Investigating Foodborne Illness & Food-Related
Injury

March 2019

APPROVAL AND IMPLEMENTATION
LCHD Foodborne Illness & Food-Related Injury

This document is hereby approved for implementation and supersedes all previous editions.

Signature
Dr. Brad Black, MD
Health Officer

Date

Signature
Janet Ivers, Chair
Board of Health

Date

Signature
Kathi Hooper, Director
Health Department

Date

Record of Changes

Date	Revisions Made	Approved by:	Distribution Date
06/2018	Development		
03/2019	Revised typos		

Introduction

A foodborne outbreak is the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food. An outbreak may also result from ingestion of foods from a common source, such as a restaurant, where multiple foods were contaminated by an ill food worker or a contaminated surface, or when an establishment receives food that was previously contaminated somewhere along the farm-to-fork chain.

Purpose

1. Identify the cause of the outbreak to prevent additional cases of illness.
2. Develop interventions to prevent similar outbreaks from occurring in the future.
3. Improve our understanding of foodborne diseases by identifying the contributing factors and antecedents that cause individual outbreaks.

Notification

Detection and subsequent notification of outbreaks can occur in a variety of ways including:

1. **Notification by the Public (by Ill Patrons)**
 - a. Single complaints of suspected foodborne illness are monitored to look for common factors such as food establishment, onset, food product, or demographics that may be indicative of an outbreak. For example, in one day 15 alerts may be received that all mention dining at Restaurant X or consumption of refried beans, or were from unrelated individuals who all resided in the same town.
 - b. **Multiple Illnesses** - Notification of an outbreak may be received from attendees of a party, special event, or other large gathering who become ill and report the occurrence to the local or state health department.
2. **Routine Surveillance** The state or local health department (LHD) receives confirmed laboratory results for a reportable foodborne disease. These results include notification of local or multi-state outbreaks based on common Pulsed Field Gel Electrophoresis (PFGE) results or other factors.
3. **Notification by a Health Care Worker** A physician, nurse, facility director or other health care practitioner reports a suspected outbreak by phone to the state/local health department, based on the number of patients reporting who have similar symptoms, exposure, etc.

The foodborne outreach investigation team consists of:

- Health Officer
- Health Department Director
- Sanitarian
- Communicable Disease Coordinator

Roles and Responsibilities

- The **Health Officer** will stay abreast of the investigation and ensure that resources are available for the prompt and effective conduct of the investigation and communication of

the results. The Health Officer will assist in communications within and outside of the department, as necessary.

- The **Health Department Director** will guide and assist department employees in the conduct of their duties, and collaborate with team members for the coordinated conduct of the investigation, obtaining background medical information relevant to the investigation, obtaining clinical specimens, evaluating the cause of the outbreak, and assisting with hypothesis generation and the subsequent hypothesis evaluation.
- The **Communicable Disease Coordinator** will collaborate with team members for the coordinated conduct of the investigation, evaluate the cause of the outbreak, investigate the disease cases and assist with hypothesis generation and the subsequent hypothesis evaluation. The communicable disease coordinator will conduct foodborne disease surveillance; characterize the outbreak; develop hypothesis; conduct special studies and analyses that identify risk factors such as implicated food items; and interview cases.
- The **Sanitarian** will assist with the inspection of food service facilities and process and evaluate possible causes of the foodborne illness outbreak, obtain relevant specimens for testing, determine appropriate interventions, monitor results of those interventions, and compile epidemiological information on the outbreak. The sanitarian also conducts environmental investigation that may include interviewing food workers; referring food worker for collection of stool specimens; collecting food and environmental samples for laboratory analysis; conducting food preparation reviews (food flows); identifying contributing factors (contamination, proliferation, and survival) and antecedents; implementing and monitoring long and short-term controls

Communication

During a foodborne illness outbreak investigation, the investigation team will meet frequently, either formally or informally, to keep collectively updated on the progress of the investigation. The team will designate one of its own members to update other employees of the Health Department, the Board of Health and the Commissioners about the investigation's progress.

If the investigation indicates foodborne illness or poisoning developed from a food establishment (not licensed as a retail food establishment), the state or federal agency governing the establishment will be notified by the health officer.

The health officer, or designee, will contact appropriate representatives from DPHHS regarding the progress of the investigation. Other team members will assist with this communication, as needed.

The health officer, or designee, will communicate with the general public and the media regarding the progress of the investigation. Other team members will assist with this communication, as needed.

Procedure

1. After the notification is made to the Health Department the person receiving the complaint (whether sanitarian or communicable disease coordinator) will follow-up and share with the appropriate team members.
2. The sanitarian and/or the communicable disease coordinator will determine whether to trigger a foodborne illness outbreak investigation if two or more people who have ingested a common food and have similar disease, similar symptoms or excrete the same pathogens.
3. If an outbreak does not appear to have manifested, based upon the investigation and information provided, the complaint will be considered isolated and closed. However, a case history will be completed in the event the information becomes relevant in the future.
4. When the decision is made to trigger a foodborne illness outbreak investigation, the initiating team member will determine when formal and informal meetings of the investigation team are necessary.
5. The Communicable Disease Coordinator and the sanitarian will:
 - a. Obtain an itemized list of people and phone numbers exposed to the suspect meal, ill and well contacts alike. This may include an attendance list, credit card receipts, or roster of clientele. These individuals, also, will be contacted and interviewed in order to complete case histories.
 - b. Obtain a complete menu, including side dishes, desserts and beverages of the suspect meal to assist in more accurate interviewing of people exposed.
 - c. Findings as the investigation progresses will be reported to team.
 - d. All food from the suspect meal(s) will be entered into the Food Attack rate table and data will be compiled for each food regarding the number of ill and well people who ate the food, as well as the numbers of ill and well people who did not eat the food. Using these tables, calculations will be made to indicate the specific attack rates and exposures.
 - e. The hypotheses for a possible pathogen and the implicated food will be formed.
6. The Sanitarian will conduct a thorough inspection of the establishment and interview all food service personnel regarding food sources, food preparation techniques, storage and display, and transportation procedures used at the time of the suspect meal.
7. The team will decide which collected food samples will be forwarded to the Montana Public Health Laboratory for testing (All samples must be submitted to the Montana Public Health Laboratory. The laboratory will then determine if other laboratory support is required).
 - a. Use the correct kit for specimen collection and delivery.
 - b. Follow procedures for food collection and handling, and human sample collection handling. The procedures are in the foodborne illness outbreak kit.
 - c. Contact the Montana Public Health Laboratory (DPHHS) for proper procedures regarding transportation of specimens to the lab (phone number 406-444-3444).
8. The Communicable Disease Coordinator is responsible for creating a final report of the foodborne illness outbreak investigation for submission to DPHHS. The team will complete

CDC Form 52.13 to summarize the foodborne illness outbreak investigation results. Team members will compile a cover letter describing any components of the investigation that were not adequately summarized in CDC Form 52.12. This cover letter, along with CDC Form 52.13, will be submitted to DPHHS as a final report of the investigation.

9. The Communicable Disease Coordinator will contact hospitals, clinics, local physicians, etc., to notify the medical community of a possible foodborne illness outbreak and to request assistance in obtaining fecal, vomitus, blood, and other related samples prior to administration of antibiotics.
10. Control measures will be implemented. The Department will need to educate all clients about the disease process, emphasizing hygiene, particularly proper hand-washing techniques.

OU2 concerns

The following comments are submitted regarding the proposed delisting of OU2. While I have no outright objection to the delisting, there are several concerns that should be recorded as this OU moves to a "less active" category.

1. The O&M Plan for the OU should be updated to be consistent with site-wide O&M provisions, including ICs as they are developed.
2. Review of the existing budget and scope for annual O&M inspection efforts and other activities appears to likely understate the cost and effort needed, particularly with the planned activities upstream in OU3. In addition to the examination of the physical condition of OU2, Rainy Creek effluent data should be reviewed annually and summarized in detail. The general concern is upcoming planned upstream construction activities can result in unanticipated conditions that can adversely affect Rainy Creek, OU2, and the receiving stream (Kootenai River).
3. Overall, it appears that the O&M plan for this OU should be reviewed in detail, with input from DEQ and Lincoln County ARP, and strengthened as needed.

Aside from the delisting topic itself, a separate response regarding these concerns to the Lincoln County Asbestos Resource Program and the City-County Board of Health for Lincoln County would be appreciated.

Noah Pyle
Lincoln County ARP Manager

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)

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)

***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.