

Institutional Controls and You

An introduction to the tools used to protect human health and the environment for the long term at the Libby Asbestos Superfund Site

The U.S. Environmental Protection Agency (EPA) began investigation and remediation of Libby amphibole asbestos (LA) at the Libby Asbestos Superfund Site (the Site) in 1999. Since then, EPA has sampled air, surface water, groundwater, soil, and building materials; cleaned up over 2,600 residential and commercial properties and schools; disposed of over 1.2 million cubic yards of contaminated soil and building materials; and pushed the science in terms of understanding LA risk and analytical methods. It was a huge undertaking that pumped hundreds of thousands of dollars into the local economy in support of eliminating unacceptable human health and environmental risk. In April 2020, Operable Units (OUs) 4 and 7 will transition into the operations and maintenance (O&M) phase. These OUs include all residential, commercial, and public properties (including schools and parks) in and around the City of Libby (OU4) and Troy (OU7). The Montana Department of Environmental Quality (DEQ) is the lead agency for the O&M phase, and EPA will play a supporting role after that transition.

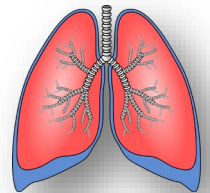


Institutional controls (ICs) are key to the protection of the remedy and will be used for the foreseeable future. Public cooperation is essential for ICs to work properly. This fact sheet briefly covers what ICs are, the process for selecting them, which ICs will be used, what you can do to help make sure they work, who administers ICs, and where you can get assistance.

What Are ICs?

ICs are administrative, programmatic, and legal controls that help minimize the potential for human exposure to contamination and/or protect the integrity of a remedy. They often include permits or educational materials. ICs are typically put in place after engineered controls (like covers or removals) are complete.

The ICs for the Site target *inhalation* of LA because that is the pathway with the potential for unacceptable risk to people. Inhalation of LA can occur from disturbances of soil and duff, tree bark, woodchips and mulch indoor dust, vermiculite insulation, and indoor woodstove ash.



The objectives of the ICs are to:

- Prevent LA fibers that may remain in soil and in inaccessible building materials from becoming a future source of unacceptable risk
- Track changes in land use and develop a notification system to notify current and prospective property owners and workers of remaining or potential LA, which could become a future source of unacceptable exposure.



EPA's Libby Asbestos Superfund Website: www.epa.gov/superfund/libby-asbestos



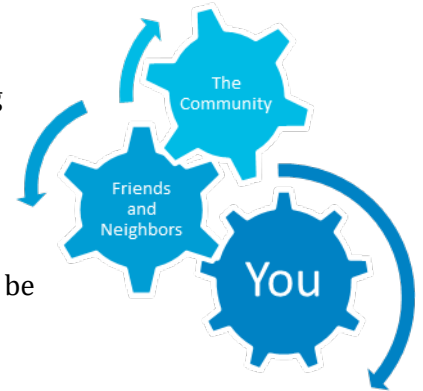
How Were the ICs for Libby and Troy Developed?

EPA and DEQ worked with the communities through an advisory committee to develop the ICs and the tools that will be used to carry them out. The City of Libby/Lincoln County Board of Health put together the Institutional Control Steering Committee to help develop guidance documents needed.

With the help of DEQ and the advisory committee, EPA has developed the *Operable Units 4 and 7, Draft Final Institutional Control Implementation and Assurance Plan*. Otherwise known as the draft ICIAP, the plan was released for public comment on October 28, 2019. It will be finalized after the comment period closes on December 31, 2019 and comments are evaluated. (See the back page for where to get the draft ICIAP and send comments.)

Who is Responsible for Using ICs?

Everyone! Property owners and users in OUs 4 and 7 are responsible for knowing and adhering to ICs. Users include recreational users, visitors, contractors, renters, and others. This means you, your friends and neighbors, and others in the community. A lot of information will be provided to make the public aware of ICs. Please pay attention and pass information you find helpful on to others. Also, let the Asbestos Resource Program (ARP) know what works and what could be done better (see the back page).



What Types of ICs are Used in Libby and Troy?

There are four basic types of ICs, two of which are currently used or anticipated for use. They are:

- **Government Controls.** These controls include updating codes, ordinances, and regulations within Lincoln County.
- **Informational Devices.** These controls are the lion's share of ICs at the Site. They include permits, notices, information requests, educational outreach, a database, a manual, and more.

Proprietary controls are a third type of IC and involve private agreements that place restrictions on or otherwise affect property use. The final type of IC is enforcement documents. No proprietary controls or enforcement documents are planned. If needed in the future, they will be added to the ICIAP.

What Government Controls Are Used?

Government controls at the Site consist solely of the **property evaluation notification (PEN) ordinance** whose purpose is to inform the public of the possibility of exposure to LA as a result of:

- Excavation, grading, landscaping
- Interior or exterior demolition, repair, modification, disturbance of material, or remodeling of permanent or temporary structures
- Land use changes or changes in the frequency of use based on review of potential development of subdivisions or previously undeveloped land
- Land or property acquisitions through real estate transactions



The PEN ordinance provides LA property information, data, education, and evaluations to protect the public from exposures resulting from disturbance of LA. **Prior to performing such activities, a person is required to notify ARP.** Information provided may be used to provide additional assistance, information, or ICs.

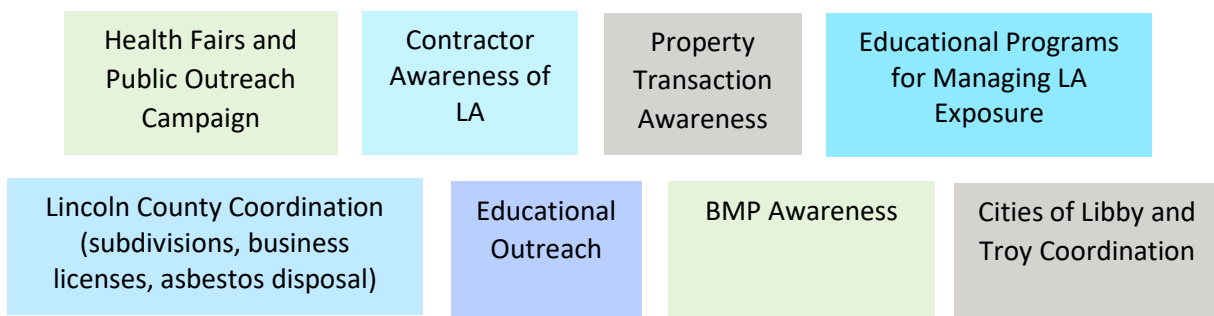
What Informational Devices Are Used?

The various informational devices used as ICs are listed below. More detail can be found in the ICIAP.

- Montana Department of Transportation (MDT) Encroachment Permit Application and Addendum.** All individuals and organizations intending to perform work in the highway right of way must apply for an encroachment permit with MDT.
- Notices.** EPA filed notices of environmental condition and notices of *potential* environmental condition with Lincoln County for any property whose owner has refused to complete investigation and/or cleanup efforts. These notices alert others to the presence or potential presence of contamination at a property and caution interested parties.
- UDIG/Montana 811.** The UDIG call center will notify the ARP of planned ground-disturbing activities. The ARP will review data and results and provide guidance on how to address left-in-place contamination or potential LA encounters.
- ARP.** The ARP helps manage contamination risk. That help may include providing resource materials and best management practices (BMPs), identifying contractors educated in LA-specific abatement practices, administering the PEN ordinance, monitoring LA exposure during O&M, facilitating the removal and disposal of LA contamination, and reducing the potential for exposure to LA. Originally funded by EPA, ARP will be funded by a cooperative agreement with DEQ during O&M.



ARP program components are:



- Data and Administrative Record Sources.** There are hundreds of thousands of pieces of data regarding the nature and extent of LA in Libby and Troy and the status of any given property. The data are available for the implementation of ICs and stored in the following locations:
 - DEQ's response manager and integrated GIS database
 - Property information hard drives provided to Montana DEQ and ARP
 - Libby Asbestos Superfund Site Administrative Record (accessible to the public at both the Libby and Troy public libraries)
 - EPA Libby Asbestos Superfund Site website www.epa.gov/superfund/libby-asbestos
- BMP Manual.** A BMP manual was developed to provide the best practices when working with LA or near potential LA exposure areas. Used with the other layers of ICs and BMPs, the manual guides property owners, land users, tenants, and visitors in the prevention or reduction of a release of and/or exposure to LA.



Who is Responsible for Administering ICs?

Federal, state, and local governments each have a role in administering ICs:

- **Montana DEQ.** DEQ is the lead agency responsible for IC implementation, maintenance, and tracking. Tracking will assess if ICs are working as designed to protect the remedy and will consist of periodic monitoring (nonintrusive visual inspections, limited sampling and analysis, and tracking of IC effectiveness statistics and metrics) and reporting. DEQ is also responsible for implementing and managing specific ICs, with assistance from ARP, as further detailed in the ICIAP.
- **EPA.** EPA's role is to ensure ICs are in place to protect the remedy and remain effective and functioning as designed prior to O&M and during O&M reviews. Additionally, EPA determines any necessary additions or modifications to the ICIAP and formally reviews IC effectiveness during five-year reviews.
- **Lincoln County Board of Health.** The Board of Health is responsible for setting countywide policies and regulations to protect the health of Lincoln County residents; administering the ARP that works with the government and public to provide LA education, public outreach, and locally controlled IC implementation; and implementing Board of Health policies and regulations. The ARP may coordinate with and provide guidance to the local government in managing potential LA exposure through ICs. The ARP is also responsible for assisting with developing the ICIAP and providing DEQ and EPA with information and metrics regarding ICs for O&M reporting.
- **Municipal Governments.** Municipal government agencies (i.e., Lincoln County, City of Libby, City of Troy) are responsible for procedures that may support the implementation and management of specific ICs, as further detailed in the ICIAP.
- **MDT.** MDT manages ICs in the highway right of way.

Additional responsibilities (such as ICIAP development) were undertaken by the IC Steering Committee, the Libby Asbestos Superfund Oversight Committee, Lincoln County, City of Libby, and City of Troy.

Need More Information on ICs?

The ARP was developed to educate the public regarding the risks of LA exposure and provide resources to manage risks associated with LA exposure, including implementing initiatives or ordinances to reduce or prevent LA exposure. For information, handouts, resources, contractor guidance and referrals, or additional resources, the public is encouraged to contact ARP. Residents may first want to visit the ARP website (see box). The information provided there may answer most questions. If not, please call or stop by the ARP office.



The public comment period for the draft ICIAP is October 28 to December 31, 2019. The draft ICIAP can be picked up at the EPA Info Center (108 E. 9th Street in Libby) or downloaded from EPA's website (www.epa.gov/superfund/libby-asbestos).

Email or mail your comments to:

**EPA Remedial Project Manager, Dania Zinner, zinner.dania@epa.gov or
U.S. EPA Region 8 (8SEM-RBB), 1595 Wynkoop Street, Denver, CO 80202-1129**