

Libby Asbestos Superfund Oversight Committee Bylaws

February 2020; Amended December 2021

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- I. MISSION STATEMENT
 - A. The primary mission of the Libby Asbestos Superfund Oversight Committee is to utilize each member's diverse representation to cooperatively assist in safeguarding public health through the protection of past cleanup remedies as well as in the implementation of final cleanup and long-term operation and maintenance.
- II. FUNCTIONS, SCOPE OF DUTIES, AND ACCOUNTABILITY
 - A. Functions: The Libby Asbestos Superfund Oversight Committee (LASOC). The LASOC functions as an attachment to the Montana Department of Environmental Quality (DEQ) for administrative purposes only, as prescribed in 2-15-121.
 - B. Scope of duties: The scope of the LASOC duties includes:
 - 1. monitoring activities related to the Libby asbestos superfund site;
 - 2. assisting in the implementation of final cleanup and long-term operation and maintenance plans for the Libby asbestos superfund site;
 - 3. reviewing documents and providing comments and recommendations to the DEQ and to local governments and appropriate federal agencies regarding the Libby asbestos superfund site;
 - 4. assisting in the preparation and dissemination of reports and other information as necessary;
 - 5. providing recommendations to the department of environmental quality regarding the administration of:
 - i. the Libby asbestos cleanup trust fund provided for in 75-10-1603 and
 - ii. the Libby asbestos cleanup operation and maintenance account provided for in 75-10-1604; and
 - iii. recommendations including specific scenarios and/or categories not funded through Environmental Protection Agency (EPA) Operations & Maintenance (O&M) funds.
 - 6. initiating and striving to maintain negotiations with DEQ, the EPA, and any other entity with a goal of reducing the state and federal roles in the long-term operation and maintenance work at the Libby asbestos superfund site while increasing the role of Lincoln County in expending funds and managing and implementing operation and maintenance activities;
 - 7. LASOC shall meet at least quarterly to fulfill the requirements of this section.
 - C. Accountability: LASOC interacts with DEQ and other decision makers to provide recommendations on matters within its scope, on behalf of Lincoln County and citizens of Montana.

1. LASOC seeks a free and open two-way exchange of information and views between LASOC members and DEQ in their supporting role to EPA, where all are invited to speak and to listen.
2. LASOC members may request access to independent technical advice, staff, and training.
3. LASOC will develop specific operating procedures and commit to hearing a wide range of views and using constructive methods for resolving conflict, making decisions, and dealing with the differing viewpoints.
4. LASOC will be fiscally responsible with funds for administrative duties, follow state and statutory requirements, and consider responsible and transparent funding regarding all recommendations.
5. LASOC will always remain accountable to the public.
6. In accordance with DEQ public information practices, LASOC meetings will be open to the public, and LASOC will give advance notice of a minimum of 10 days. LASOC meetings will be held in public locations with call in access to encourage maximum public and LASOC participation.
7. DEQ will remain mindful of the various stakeholder interests represented on and represented through LASOC. It will seek to ensure that all interested parties and stakeholders continue to be adequately and equitably represented.
8. DEQ is responsible for ensuring that the Superfund remedy continues to perform as intended and remains protective of human health and the environment.
9. DEQ is fiscally responsible for the requirements for use of funds and long-term budgeting of the O&M program.
10. LASOC will send all recommendations to DEQ for a response.
11. Appointed subcommittees are jointly chartered under these bylaws.
12. LASOC will submit a report to the Environmental Quality Council by July 1 of each year.

III. MEMBERSHIP

A. LASOC Commitments: Committee members make the following commitments:

1. To attend meetings and receive training as needed to fulfill role on LASOC;
2. To review and comment on action items not limited to documents within their purview that come before LASOC, and submit timely comments and feedback;

3. To be available for committee work between LASOC meetings, and to participate fully in the affairs of LASOC;
 4. To work collaboratively and respectfully with other LASOC members, regulating agencies, and stakeholders in the best interests of both LASOC and the public;
 5. Conduct themselves with integrity, respect, honesty, and credibility and approach all meetings with professionalism;
 6. To represent accurately all matters before LASOC;
 7. To handle, in a responsible manner, information and materials provided by regulating agencies, particularly drafts developed for an agency's in-house use, that might have significant future revisions as part of the agency's working practices;
 8. To share any finalized written communication about or for LASOC activities with LASOC as a whole and with the DEQ;
 9. To act for LASOC as directed by the committee;
 10. To abide by the terms and conditions of the Mission Statement and these bylaws.
- B. Subcommittees: The Presiding Officer, with majority approval of LASOC, or LASOC themselves, can establish subcommittees as it deems necessary for matters to include, but not limited to, research, briefings, documentation development, background information prior to a LASOC recommendation determination, and fiscal planning. Subcommittees shall be established by formal motion of the LASOC and include as a minimum names of subcommittee members, statement of purpose and scope, reporting expectations, Facilitator role, if any, and requested timeline. The Director of DEQ or his representative must approve the participation of DEQ personnel on a subcommittee. Other members may also need to obtain employer/client consent.
1. Structures of Subcommittees:
 - i. Members may include both non-LASOC and LASOC members but must include one LASOC member who shall serve as liaison to the LASOC via the Presiding Officer. The LASOC member may also delegate roles to a facilitator if one is included in the establishment of the subcommittee.
 - ii. Subcommittee members may develop additional operating procedures consistent with the bylaws.
 - iii. The LASOC subcommittee member, or facilitator, if applicable, will provide a written report of the subcommittee activities to the LASOC via the Presiding Officer.
 - iv. The LASOC subcommittee member, or facilitator, if applicable, may confer with the Presiding Officer for guidance regarding progress of the subcommittee.

- v. The subcommittee may not significantly alter their purpose and scope as presented in the LASOC motion that authorized their creation without prior consent of LASOC with amended instructions.
- vi. Subcommittee members may not be replaced or substituted without consent of the LASOC or presiding officer.
- vii. The subcommittees will meet independently of LASOC. If the meetings of the subcommittee are open to the public, they must hold them in public locations after appropriate notice.

IV. LASOC STRUCTURE

A. The LASOC will consist of:

- 1. The director of DEQ or the director's designated representative;
- 2. A Lincoln County commissioner designated by the commission;
- 3. A citizen of Lincoln County nominated by the Lincoln County commission and selected by the governor;
- 4. One member of the House of Representatives whose district includes at least a portion of Lincoln County appointed by the speaker of the house; and
- 5. One member of the Senate whose district includes at least a portion of Lincoln County appointed by the senate president.

B. LASOC will have a Presiding Officer and Vice Presiding Officer elected by majority vote.

C. In the event of a temporary absence of the Presiding Officer, the Vice Presiding Officer will chair the meeting and in any other capacity of the Presiding Chair.

D. In the event of a temporary absence of the Presiding Officer and the Vice Presiding Officer, an officer will be appointed to chair the meeting.

E. In the event of vacancy of the Presiding or Vice Presiding Officer due to resignation or for other reasons, the remaining committee members shall elect replacements at the following meeting.

V. DECISION MAKING

- A. All LASOC decisions relating to recommendations to DEQ shall be reached through parliamentary procedure. LASOC shall strive for substantial agreement among members for approval of recommendations.
- B. Quorum for Meetings: For the purpose of conducting business, a quorum shall be a simple majority of the membership of LASOC.
- C. Approval of Recommendations to be forwarded to DEQ: Recommendation requests shall be approved by a minimum of three votes. However, we strive to reach consensus as we seek to understand all points of view and consider alternatives with an open mind.
- D. Official LASOC positions or correspondence:
 - a. require unanimous vote.

- b. Individual members are not prohibited from providing their individual opinion and position outside of LASOC but should be careful to provide a disclaimer that they are not speaking on behalf of LASOC.
- E. Proxy Voting: Voting by proxy on any LASOC action is allowable. The committee Presiding Officer/Acting must be notified in advance with a digital or written proxy authorization.
- F. Requirements for Recommendations to DEQ:
 - 1. LASOC members or the public may propose recommendations to LASOC.
 - 2. Recommendations must consider long-term protectiveness of the remedy including operation and maintenance, long-term funding, transparency with past and potential future recommendations, and priorities for the Libby asbestos superfund site.
 - 3. LASOC may determine specific scenarios and/or categories of issues should consistently move forward as recommendations or should not be elevated. These specific scenarios and/or categories may become fundamental positions of LASOC and adopted into the bylaws, as needed to streamline the recommendation process.
 - 4. Proposed recommendations must be in writing.
 - 5. Proposed recommendations will be included on the agenda and include any submitted supporting background documentation.
 - 6. Proposed recommendations will be discussed at LASOC meetings and will be approved, rejected, or returned to subcommittees for further work (e.g., research, refinement, incorporation of public and/or members' comments).
 - 7. Proposed recommendations will be introduced as motions for LASOC approval.
 - 8. When an issue comes before LASOC, the Presiding Officer may refer the issue to subcommittee for that issue with progress reported at the next meeting.
 - 9. LASOC member(s) who disagrees with an approved recommendation may choose to document their disagreement in writing
 - 10. When it appears that LASOC has reached agreement on a particular recommendation, the Presiding Officer may call for a vote.
 - 11. Recommendations dealing with complicated and/or controversial issues may require more than one draft and may take an extended amount of time to evolve into a form that is acceptable by a majority of LASOC.
- G. Administrative Decision Making

1. Administrative functions of LASOC may be served by delegation or contracted services where the Presiding Officer ensures administrative functions are carried out.
 2. If LASOC finds need to review or affirm specific decisions made under their administrative duties, such affirmation will be expressed by a majority vote of LASOC at the next meeting
- H. Procedures and Parliamentary Law: The current edition of “Robert’s Rules of Order” shall apply on all questions of procedures and parliamentary law not specified in these bylaws.

VI. THE BYLAWS

A. Adoption of Bylaws

1. These bylaws will be effective upon the review, approval, and affirmative vote of the LASOC membership, and execution by the Presiding Officer. All previous bylaws or procedures are hereby rescinded.

B. Amending the Bylaws

1. LASOC shall have the power to alter, amend, and repeal these bylaws in ways consistent with the LASOC Mission Statement, and other applicable laws, regulations and guidelines. Any member of the public, stakeholders, agencies, or LASOC may propose an amendment. However, to be considered by LASOC the proposed amendment must be sponsored by a LASOC member. The bylaws may be amended at any meeting of LASOC by a majority vote of the entire LASOC membership (minimum of 3 votes) provided that the proposed amendment was submitted in writing and read at a previous meeting.

C. Subordination and Severability of the Bylaws

1. If a conflict arises with respect to any provision of these Bylaws and state statutes, the laws of the State of Montana, or federal or state regulatory authority, then the superseding law or regulation shall control. If any provision of these bylaws is invalid, such invalidity shall not affect the remaining provisions that shall continue in full force and effect.

VII. FORMAT OF MEETINGS

- A. Held at least quarterly.
- B. Agreement on meeting dates and location should occur at least 20 days prior to the day of the meetings. Meeting date, time, location and agenda will be approved by the Presiding Officer.
- C. Agendas, with input from all members of the LASOC and other DEQ representatives, will be developed at least 10 days prior to the meeting dates.
- D. Published meeting notices for public notice no later than ten (10) calendar days in advance of a meeting. Post the final agenda at least 5 days prior to the meeting.

- E. Establish appropriate in-person and remote participation opportunities with at least two (2) locations, one in Lincoln County and one in Helena, Montana.
- F. Coordinate all meetings and materials with DEQ representatives, in order to get meeting materials posted on the LASOC website and to ensure that meeting minutes are being taken and recorded.
- G. Meetings will be open to the public; a section of the meeting room will be set aside for observers; and public comment is invited at appropriate times during a meeting.
- H. If required, at the discretion of the Presiding Officer, the fixed time will be divided equally among the members of the public who request to speak.
- I. Before a decision on a recommendation is made, the Presiding Officer may invite members of the public to offer their input. LASOC will determine in advance how much time they will allocate for public input.
- J. Members of the public may offer their comments in writing and give them to LASOC.
- K. Any meeting will be set up in terms of both the physical arrangements and the agenda to facilitate hearing and discussion.
- L. Minutes of the meetings once approved will be placed on DEQ website and archived after two years. In addition, the minutes will be kept by an individual designated by the Presiding Officer, distributed to LASOC members for their review and made available to the public. Each meeting agenda will include the opportunity for members to revise the minutes of the previous meetings. The LASOC must approve the minutes at the next scheduled meeting.
- M. Any product of LASOC, such as policies, positions, reports, advice, or recommendations must be reviewed by the Presiding Officer for consistency with LASOC actions prior to distribution outside the committee; the review may include dialogue with committee members and staff, including electronic communications.

VIII. BUDGET

- A. Authority and Funds: DEQ is responsible for Libby Superfund Site Operation and Maintenance (O&M) funds. LASOC may provide recommendations to DEQ regarding the Libby asbestos cleanup trust fund for in MCA 75-10-1603 and the Libby asbestos cleanup operation and maintenance account provided for in 75-10-1603. DEQ will take such recommendations under advisement and will make the ultimate funding determination.
- B. Compensation: LASOC members will serve without compensation but may receive travel reimbursement for direct expenses related to the work of the LASOC and meeting attendance.
- C. Travel Expense: Unless otherwise provided by law, each LASOC member is entitled to be reimbursed for travel expenses, as provided in MCA 2-18-1501 and 2-18-503, incurred while performing oversight committee duties. All travel

expenses must be submitted to DEQ for reimbursement within 60 days on DEQ approved travel reimbursement forms with the associated documentation and included in LASOC's records.

IX. LEGAL RESOURCES

- A. Legal counsel may be sought by outside services on behalf of LASOC to provide neutral counsel not inherently associated with representing their primary client. LASOC members may seek legal counsel within their respected roles outside of LASOC and provide such counsel back to LASOC.

X. CONFLICT OF INTEREST

- A. Definition: LASOC members are prohibited from personally and substantially participating as a LASOC member in any particular matter in which the LASOC member or the LASOC member's spouse, minor child, general partner, or employee has a financial interest. This restriction also applies if the LASOC member is negotiating or has any arrangement concerning prospective employment with any person or organization that has a financial interest in any particular matter before LASOC.
- B. Enforcement of Conflict of Interest Policy: Questions concerning conflict of interest shall be referred to DEQ and the Presiding Officer, who will seek the advice of legal counsel for resolution.
- C. Recusal: If a LASOC member is aware of a conflict of interest, as defined above, the member shall immediately inform DEQ and LASOC of the interest and shall refrain from participating in discussions and recommendations in which a conflict or potential for conflict of interest exists.
- D. LASOC members shall abide by the following conflict of interest principles:
 - 1. Members shall refrain from any use of their membership, which is or gives the appearance of being motivated, by the desire for private gain.
 - 2. Members shall not use, either directly or indirectly for private gain, any inside information obtained as a result of LASOC or subcommittee service.
 - 3. Members shall not use their positions in any way to coerce, or give the appearance of coercing, another person to provide a financial benefit to the member or any person with whom the member has family, business, or financial ties.
 - 4. Members shall not knowingly receive or solicit from persons having business within the Libby Superfund Site anything of value as a gift, gratuity, loan, or favor while serving on LASOC or in connection with such service.
- E. Resources for LASOC include Montana Codes Annotated, Title 2, Chapter 2, Standards of Conduct and Montana Operations Manual – State Ethics Policy.