

## **APPENDIX C**

### **SUMMARY OF FEDERAL AND STATE ARARS**

## Summary of Federal and State Applicable or Relevant and Appropriate Requirements (ARARs) Libby Asbestos Superfund Site<sup>1</sup>

|                      | Statute and Regulatory Citation                                                                                                                                                                                                                                                                                                                        | ARAR Determination | Description                                                                                                                                                                                                                                                                                                                       | Comment                                                                                                                                                                                                                                                                                                                                                                                                                             | Chemical | Location | Action |
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| <b>Federal ARARs</b> |                                                                                                                                                                                                                                                                                                                                                        |                    |                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                     |          |          |        |
| 1                    | National Historic Preservation Act (NHPA) and Implementing Regulations<br>16 United States Code (U.S.C.) 470<br>36 CFR Part 800                                                                                                                                                                                                                        | Applicable         | This statute and implementing regulations require federal agencies to take into account the effect of this response action upon any district, site, building, structure, or object that is included in or eligible for the National Register of Historic Places (generally, 50 years old or older).                               | If cultural resources on or eligible for the national register are present, it will be necessary to determine if there will be an adverse effect and if so how the effect may be minimized or mitigated.<br><br>The unauthorized removal of archaeological resources from public or Indian lands is prohibited without a permit, and any archaeological investigations at a site must be conducted by a professional archaeologist. |          | ✓        |        |
| 2                    | Archaeological and Historic Preservation Act and Implementing Regulations<br>16 U.S.C. 469<br>43 CFR 7                                                                                                                                                                                                                                                 | Applicable         | This statute and implementing regulations establish requirements for the evaluation and preservation of historical and archaeological data, which may be destroyed through alteration of terrain as a result of a federal construction project or a federally licensed activity or program.                                       | To date, no such resources have been found at Libby Asbestos Superfund Site. If any are found, consultation with the State Historic Preservation Office (SHPO) and the NHPA will be addressed during remedial design.                                                                                                                                                                                                               |          | ✓        |        |
| 3                    | Historic Sites Act<br>16 USC §§ 461, et seq.,*<br><br>*The Act has been repealed and restated as section 1866(a) of Title 18, Crimes and Criminal Procedure, and sections 102303 and 102304 and chapter 3201 of Title 54, National Park Service and Related Programs, by Pub. L. 113-287, §§3, 4(a)(1), 7, Dec. 19, 2014, 128 Stat. 3094 , 3260, 3272. | Applicable         | Requires federal agencies to consider the existence and location of potential and existing National Natural Landmarks to avoid undesirable impacts on such landmarks.                                                                                                                                                             | No National Natural Landmarks have been identified in Lincoln County.                                                                                                                                                                                                                                                                                                                                                               |          | ✓        |        |
| 4                    | Fish and Wildlife Coordination Act and Implementing Regulations<br>16 U.S.C. 662, et seq.,<br>50 CFR 83<br>33 CFR 320-330                                                                                                                                                                                                                              | Applicable         | This statute and implementing regulations require coordination with federal and state agencies for federally funded projects to ensure that any modification of any stream or other water body affected by any action authorized or funded by the federal agency provides for adequate protection of fish and wildlife resources. | If the remedial action involves activities that affect wildlife and/or non-game fish, federal agencies must first consult with the U.S. Fish and Wildlife Service and the relevant state agency with jurisdiction over wildlife resources.                                                                                                                                                                                          |          | ✓        |        |

<sup>1</sup> The ARARs determination contained in this table is specific to the selected remedy for OUs 4 through 8. EPA, in consultation with Montana Department of Environmental Quality, will conduct a comprehensive ARARs analysis and make a final ARARs determination for the Mine site (OU3) through the OU3 remedy selection process.

| Statute and Regulatory Citation                                                                                       | ARAR Determination       | Description                                                                                                                                                                                                                                                                                                                                                      | Comment                                                                                                                                                                                                                                                                                                                                   | Chemical | Location | Action |
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| <b>Federal ARARs</b>                                                                                                  |                          |                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                           |          |          |        |
| 5 Bald Eagle Protection Act<br>16 USC §§ 668 et seq.                                                                  | Applicable               | This requirement establishes a federal responsibility for protection of bald and golden eagles, and requires continued consultation with the appropriate program within the USFWS during remedial design and remedial construction to ensure that any cleanup of the facility does not unnecessarily adversely affect the bald and golden eagle.                 |                                                                                                                                                                                                                                                                                                                                           |          | ✓        |        |
| 6 Endangered Species Act and Implementing Regulations,<br>16 U.S.C. 1531<br>50 CFR 17 and 402                         | Applicable               | This statute and implementing regulations provide that federal activities not jeopardize the continued existence of any threatened or endangered species. Endangered Species Act, Section 7 requires consultation with the U.S. Fish and Wildlife Service to identify the possible presence of protected species and mitigate potential impacts on such species. | Seven endangered, threatened, or candidate species have been identified in Lincoln County. If threatened or endangered species are identified within the remedial areas, activities must be designed to conserve the species and their habitat. To date no threatened or endangered species have been identified in the area of the site. |          | ✓        |        |
| 7 Migratory Bird Treaty Act and Implementing Regulations,<br>16 U.S.C. 703, et seq.<br>50 CFR 10.13                   | Applicable               | This requirement establishes a federal responsibility for the protection of the international migratory bird resources and requires continued consultation with the U.S. Fish and Wildlife Service during remedial design and remedial construction to ensure that the cleanup of the site does not unnecessarily impact migratory birds.                        | The selected remedial actions will be carried out in a manner to avoid adversely affecting migratory bird species, bald eagle and including individual birds or their nests.                                                                                                                                                              |          | ✓        |        |
| 8 Clean Air Act (CAA) and Implementing Regulations<br>42 U.S.C. 7401, et seq.<br>40 CFR 61, Subpart M                 | Applicable               | National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Asbestos.                                                                                                                                                                                                                                                                                 | The selected remedial actions will be carried out in a manner that will comply with all the National Emission Standard for Asbestos as required under NESHAP.                                                                                                                                                                             | ✓        |          | ✓      |
| 9 CAA<br>Air Cleaning<br>40 CFR 61.145 (c) & (d)                                                                      | Applicable               | This requirement establishes detailed standards and specifications for demolition and renovation. The regulation provides detailed procedures for controlling asbestos release during demolition of a building containing "regulated-asbestos containing material (RACM)".                                                                                       | Applicable to building demolitions that may occur as part of remedial action if certain threshold volumes of RACM are disturbed.                                                                                                                                                                                                          |          |          | ✓      |
| 10 CAA<br>Air Cleaning<br>40 CFR 61.149<br>Note: Section 61.149(c)(2) is not delegated to the State per 40 CFR 61.157 | Relevant and Appropriate | This Act and implementing regulations, 40 CFR 61.149, establish detailed procedures and specifications for handling and disposal of asbestos containing waste material (ACM) generated by an asbestos mill. The provision allows an alternative emission control and treatment method.                                                                           | Requirements under this regulation are considered relevant and appropriate to any ACM (friable material containing >1% asbestos) disposal. It is not applicable, because the facilities do not meet the regulatory definition of an asbestos mill.                                                                                        |          |          | ✓      |
| 11 CAA<br>Air Cleaning<br>40 CFR 61.150<br>Note: Section 61.150(a)(4) is not delegated to the State                   | Applicable               | Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations. This regulation provides detailed procedures for processing, handling, and transporting ACM generated during building demolition and renovation (among other sources).                                                                              | Applicable to RACM generated by building demolitions that may occur as part of the remedial action.                                                                                                                                                                                                                                       |          |          | ✓      |

| Statute and Regulatory Citation                                                                                                                       | ARAR Determination       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Comment                                                                                                                                                                                                                                                                                | Chemical | Location | Action |
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| <b>Federal ARARs</b>                                                                                                                                  |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                        |          |          |        |
| 12 CAA<br>Air Cleaning<br>40 CFR 61.151<br>Note: Section 61.151(c) is not delegated to the State                                                      | Relevant and Appropriate | Standard for inactive waste disposal sites for asbestos mills and manufacturing and fabricating operations. Provides requirements for covering, revegetation, and signage at facilities where RACM will be left in place. The provision allows an alternative control method.                                                                                                                                                                                                             | Requirements under this regulation are considered relevant and appropriate to asbestos containing soils and/or ACM or debris left in place. It is not applicable, because the facilities that are part of this remedial action do not meet the facility definitions in the regulation. |          |          | ✓      |
| 13 CAA<br>Air Cleaning<br>40 CFR 61.152<br>Note: Section 61.152(b)(3) is not delegated to the State                                                   | Applicable               | This requirement establishes detailed specifications for air cleaning used as part of a system to control asbestos emissions control system.                                                                                                                                                                                                                                                                                                                                              | These requirements would be applicable if air cleaning is part of the building demolitions.                                                                                                                                                                                            | ✓        |          | ✓      |
| 14 Floodplain Management Regulations<br><br>Executive Order No. 11988 (referenced in 40 CFR Part 35, Appendix A to Subpart H).                        | Applicable               | These require that actions be taken to avoid, to the extent possible, adverse effects associated with direct or indirect development of a floodplain, or to minimize adverse impacts if no practicable alternative exists.                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                        |          | ✓        |        |
| 15 Protection of Wetlands Regulations<br>Executive Order No. 11990 (referenced in 40 CFR Part 35, Appendix A to Subpart H).<br>33 U.S.C. § 1344(b)(1) | Applicable               | This ARAR requires federal agencies and the potentially responsible parties (PRPs) to avoid, to the extent possible, the adverse impacts associated with the destruction or loss of wetlands and to avoid support of new construction in wetlands if a practicable alternative exists.<br><br>33 U.S.C. § 1344(b)(1) also prohibits the discharge of dredged or fill material into waters of the United States. Together, these requirements create a “no net loss” of wetlands standard. | If jurisdictional wetlands are delineated within areas designated for remediation, these standards would be applicable.                                                                                                                                                                |          | ✓        | ✓      |
| 16 CAA<br>Air Cleaning<br>40 CFR 61.154<br>Note: Section 61.154(d) is not delegated to the State                                                      | Applicable               | Standard for active waste disposal sites. Provides requirements for off-site disposal sites receiving ACM from building demolitions and other specific sources.                                                                                                                                                                                                                                                                                                                           | These standards would be applicable if any portion of the site meets the definition of active waste disposal site.<br><br>All building materials and soil will be disposed of properly.                                                                                                |          |          | ✓      |

| Statute and Regulatory Citation                             | ARAR Determination       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Chemical | Location | Action |
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| <b>State ARARs</b>                                          |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |          |          |        |
| 17 MACA, MCA 75-2-501 et seq., ARM 17.74.355, ARM 17.74.359 | Applicable               | Asbestos abatement project permits. Asbestos abatement projects require a permit from Montana Department of Quality (DEQ). Permits must meet requirements at ARM 17.74.355 and ARM 17.74.359.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Applicable to material meeting the definition of RACM. The substantive requirements for performance of the work and proper disposal will be met by the contractors used. On-site Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) actions do not require a permit. It is expected that soils excavated from the Site and debris generated in the remedial action will not be RACM. Some provisions are relevant and appropriate for non-RACM waste that contains asbestos, but less than 1% asbestos. Material, such as building material but not soils, that does not contain asbestos using standard detection methods will likely be handled under Montana solid waste provisions.                               |          |          | ✓      |
| 18 MACA, MCA 75-2-501 et seq., ARM 17.74.357                | Relevant and Appropriate | Establishes air monitoring requirements for asbestos abatement projects, including for building clearance after abatement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | EPA and DEQ have determined that the methodology in the monitoring plan is equivalent or more stringent and protective as the methodology in ARM 17.74.357.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |          |          | ✓      |
| 19 ARM 17.74.369                                            | Relevant and Appropriate | Addresses transportation and disposal of asbestos-containing waste. Transportation requirements (i.e., the asbestos must be adequately wet, contained in leak-tight packaging, and both the asbestos waste and the vehicle transporting it must comply with labeling requirements). This ARAR specifies that the asbestos-containing waste must be deposited at a licensed Class II or Class IV landfill facility as soon as practical, or, if asbestos-containing waste is not disposed of as soon as practical, store any asbestos-containing waste in a secure holding facility or location accessible only to asbestos project workers or asbestos project contractor/supervisors accredited by the department. This provision also requires that the entity responsible for transport and disposal retains responsibility for the ACM until the waste is accepted by a licensed Class II or IV landfill. | The regulations are relevant and appropriate for the transportation and disposal of all LA, even if the LA does not meet the definition of asbestos-containing waste in ARM 17.74.352(4). EPA's transportation practices include using either clean laydown gravel material or plastic sheeting for haul trucks to drive on while picking up waste; waste to be hauled is wetted before, during and after excavation and transportation; all trucks have sealed tailgates and are covered with plastic sheeting to prevent the release of material during transport; and each truck is decontaminated through a thorough washing. Building materials will be disposed of properly. Soil will also be managed at an appropriate disposal facility. | ✓        |          | ✓      |
| 20 ARM 17.74.371                                            | Relevant and Appropriate | Addresses requirements for asbestos encapsulation. A person may not conduct asbestos enclosure procedures for an asbestos project unless accredited by the department as an asbestos project worker or asbestos project contractor/supervisor. Additionally, specific handling requirements (i.e., use of amended water; removal/repair of loose or hanging ACM; application requirements, including that it be applied in a manner that does not dislodge or disturb the ACM; and meeting the clearance requirements in ARM 17.74.357) must be met.                                                                                                                                                                                                                                                                                                                                                          | The regulations are relevant and appropriate for the encapsulation of all LA, except RACM as defined in 40 CFR §61.141, asbestos-containing waste as defined in ARM 17.74.352(4), and ACM as defined in ARM 17.74.352(3) (for each of these materials, the regulations would be applicable).                                                                                                                                                                                                                                                                                                                                                                                                                                                      |          |          | ✓      |

| Statute and Regulatory Citation                               | ARAR Determination       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Chemical | Location | Action |
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| <b>State ARARs</b>                                            |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |          |          |        |
| 21 CAA of MCA 75-2-101 ARM 17.8.204                           | Relevant and Appropriate | Ambient Air Monitoring & Ambient Air Methods and Data require that all ambient air monitoring, sampling and data collection, recording, analysis, and transmittal shall be in compliance with the Montana Quality Assurance Manual, except when more stringent requirements are determined to be necessary.                                                                                                                                                                                                                                                                                                            | These requirements will be followed unless an equivalent or more stringent approach is deemed appropriate by EPA.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | ✓        |          |        |
| 22 CAA of MCA 75-2-101 ARM 17.8.220 ARM 17.8.221 ARM 17.8.223 | Applicable               | <p>Ambient Air Quality. The standard for settled particulate matter (PM) specifies that settled PM concentrations in the ambient air shall not exceed a 30-day average of 10 grams per square meter.</p> <p>Concentrations of particulate matter in ambient air shall not exceed annual average scattering coefficient of particulate matter of <math>3 \times 10^{-5}</math> per meter.</p> <p>PM-10 concentrations in the ambient air shall not exceed 150 micrograms/cubic meter of air, on a 24-hour average and 50 micrograms/cubic meter of air on an annual average. A measurement method is also provided.</p> | <p>The remedial action will involve significant soil disturbance and removal of ACM. Particulate/dust levels will need to be controlled.</p> <p>The ambient air quality standards include specific requirements and methodologies for monitoring and detection. These requirements will be followed unless an equivalent or more stringent approach is deemed appropriate.</p> <p>EPA implements Best Management Practices (BMPs) to reduce dust generation and migration through wetting of all open excavations. Excavations of contaminated soils are covered with clean fill each night when removal activities have ceased. The BMPs ensure the project activities meet these ARARs. Perimeter air monitoring for LA is conducted at each active removal to demonstrate there are no releases of LA</p> <p>PM-10 Samples were collected at the beginning of the project. BMPs were effective, and no exceedances of PM-10 were observed. PM-10 sampling was discontinued because the BMPs are expected to continue to ensure compliance.</p> | ✓        |          | ✓      |
| 23 CAA of MCA 75-2-101 ARM 17.8.304                           | Applicable               | Visible Air Contaminants. No source may discharge emissions into the atmosphere that exhibit opacity of 20 percent or greater, averaged over 6 consecutive minutes. This standard is limited to point sources, but excludes wood-waste burners, incinerators, residential solid-fuel combustion devices such as fireplaces and wood or coal stoves, and motor vehicles.                                                                                                                                                                                                                                                | No visible emissions are anticipated. If any visible emissions were to occur, this ARAR would be applicable. The BMPs discussed elsewhere, including thorough wetting of the soil during excavation, wetting of roads, minimizing access, covering the transportation trucks, and covering the excavation with clean fill each night, are expected to ensure that no visible air contaminants occur.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | ✓        |          | ✓      |
| 24 CAA of MCA 75-2-101 ARM 17.8.308                           | Applicable               | Airborne Particulate Matter. Emissions of airborne particulate matter from any stationary source shall not exhibit opacity of 20 percent or greater, averaged over 6 consecutive minutes.                                                                                                                                                                                                                                                                                                                                                                                                                              | Reasonable precautions to control emissions of airborne particulate matter will be taken, including BMPs such as thorough wetting of the soil during excavation, wetting of roads, minimizing access, covering the transportation trucks, and covering the excavation with clean fill each night.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | ✓        |          | ✓      |

| Statute and Regulatory Citation |                                                                                      | ARAR Determination       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Comment                                                                                                                                                                                                                                                                                                                                                     | Chemical | Location | Action |
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| State ARARs                     |                                                                                      |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                             |          |          |        |
| 25                              | ARM 17.8.604                                                                         | Applicable               | Lists certain wastes that may not be disposed of by open burning, including asbestos, asbestos-containing material, oil or petroleum products, RCRA hazardous wastes, chemicals and wood and wood byproducts that have been coated, painted, stained, treated or contaminated by foreign material. Any waste which is moved from the premises where it was generated and any trade waste (material resulting from construction or operation of any business, trade, industry or demolition project) may be open burned only in accordance with the substantive requirements of ARM 17.8.611 or 612.                                                                                                                                                                                                                                            | None of the items in ARM 18.8.604 will be disposed of by burning.                                                                                                                                                                                                                                                                                           |          |          | ✓      |
| 26                              | Montana Strip and Underground Mining Reclamation Act ARM 17.24.501                   | Relevant and Appropriate | This provision gives general backfilling and final grading requirements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Substantive requirements relevant to this remedial action are 17.24.501 (3)(a), (4), (4)(c), (4)(d), and (5).                                                                                                                                                                                                                                               |          |          | ✓      |
| 27                              | Montana Strip and Underground Mining Reclamation Act ARM 17.24.631                   | Relevant and Appropriate | This provision provides that long-term adverse changes in the hydrologic balance from mining and reclamation activities, such as changes in water quality and quantity, and location of surface water drainage channels shall be minimized. Water pollution must be minimized and, where necessary, treatment methods utilized. Diversions of drainages to avoid contamination must be used in preference to the use of water treatment facilities. Other pollution minimization devices must be used if appropriate, including stabilizing disturbed areas through land shaping, diverting runoff, planting quickly germinating and growing stands of temporary vegetation, regulating channel velocity of water, lining drainage channels with rock or vegetation, mulching, and control of acid-forming, and toxic-forming waste materials. | Substantive requirements are to maintain the hydrologic balance, minimize water pollution and stabilize disturbed areas. Any backfilling will be with clean fill and regraded to slopes appropriate for its usage. Surface water controls (e.g., silt fences) will be implemented during construction to prevent erosion and runoff from contaminated soil. |          |          | ✓      |
| 28                              | Montana Strip and Underground Mining Reclamation Act ARM 17.24.635 through 17.24.637 | Relevant and Appropriate | These provisions set forth requirements for temporary and permanent diversions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Diversions are not anticipated.                                                                                                                                                                                                                                                                                                                             |          |          | ✓      |
| 29                              | Montana Strip and Underground Mining Reclamation Act ARM 17.24.638                   | Relevant and Appropriate | This provision specifies sediment control measures to be implemented during operations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Activities are not anticipated to impact surface water; however substantive requirements are to prevent sediment discharges. Surface water controls (e.g., silt fences) will be implemented during operations to prevent erosion and runoff from contaminated soil.                                                                                         |          |          | ✓      |

| Statute and Regulatory Citation                                       | ARAR Determination       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Comment                                                                                                                                                                                                                                            | Chemical | Location | Action |
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| <b>State ARARs</b>                                                    |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                    |          |          |        |
| 30 Montana Strip and Underground Mining Reclamation Act ARM 17.24.640 | Relevant and Appropriate | This provisions provides that discharge from sedimentation ponds, permanent and temporary impoundments, and diversions shall be controlled by energy dissipaters, riprap channels, and other devices, where necessary, to reduce erosion, prevent deepening or enlargement of stream channels, and to minimize disturbance of the hydrologic balance.                                                                                                           | Discharge structures are not anticipated.                                                                                                                                                                                                          |          |          | ✓      |
| 31 Montana Strip and Underground Mining Reclamation Act ARM 17.24.703 | Relevant and Appropriate | When using materials other than, or along with, soil for final surfacing in reclamation, the operator must demonstrate that the material (1) is at least as capable as the soil of supporting the approved vegetation and subsequent land use, and (2) the medium must be the best available in the area to support vegetation. Such substitutes must be used in a manner consistent with the requirements for redistribution of soil in ARM 17.24.701 and 702. | Quantity or quality issues with soils are not anticipated, because final surfacing will use appropriate soil material.                                                                                                                             |          |          | ✓      |
| 32 Montana Strip and Underground Mining Reclamation Act ARM 17.24.713 | Relevant and Appropriate | Provides that seeding and planting of disturbed areas must be conducted during the first appropriate period for favorable planting after final seedbed preparation.                                                                                                                                                                                                                                                                                             | Requirements will be met by seeding in the first appropriate period based on climatic conditions.                                                                                                                                                  |          |          | ✓      |
| 33 Montana Strip and Underground Mining Reclamation Act ARM 17.24.714 | Relevant and Appropriate | Requires use of a mulch or cover crop or both until an adequate permanent cover can be established. Use of mulching and temporary cover may be suspended under certain conditions.                                                                                                                                                                                                                                                                              | Requirements will be accomplished by hydro seeding.                                                                                                                                                                                                |          |          | ✓      |
| 34 Montana Strip and Underground Mining Reclamation Act ARM 17.24.716 | Relevant and Appropriate | Establishes the required method of revegetation, and provides that introduced species may be substituted for native species as part of an approved plan for alternate vegetation.                                                                                                                                                                                                                                                                               | Requirements will be accomplished by hydro seeding weed-free seed selected for the climate.                                                                                                                                                        |          |          | ✓      |
| 35 Montana Strip and Underground Mining Reclamation Act ARM 17.24.721 | Relevant and Appropriate | Specifies that rills and gullies must be stabilized and the area reseeded and replanted if the rills and gullies are disrupting the reestablishment of the vegetative cover.                                                                                                                                                                                                                                                                                    | Requirements will be met by grading in a manner to prevent rills and gullies.                                                                                                                                                                      |          |          | ✓      |
| 36 Montana Strip and Underground Mining Reclamation Act ARM 17.24.751 | Relevant and Appropriate | Provides measures to prevent degradation of fish and wildlife habitat will be employed.                                                                                                                                                                                                                                                                                                                                                                         | Alternatives will be performed in a manner to avoid degradation of fish and wildlife habitat.                                                                                                                                                      |          |          | ✓      |
| 37 Montana Strip and Underground Mining Reclamation Act ARM 17.24.761 | Relevant and Appropriate | Fugitive dust control measures must be employed during mining and reclamation activities.                                                                                                                                                                                                                                                                                                                                                                       | The actions taken to meet the relevant and appropriate requirements include watering (properties and roads used for the response action), reducing access, minimizing the area of land disturbed, and promptly revegetating through hydro seeding. |          |          | ✓      |



| Statute and Regulatory Citation                                          | ARAR Determination       | Description                                                                                                                                                                                                                                                                                                                                        | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Chemical | Location | Action |
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| <b>State ARARs</b>                                                       |                          |                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |          |          |        |
| 38 MWQA<br>MCA 75-5-303<br><br>ARM 17.30.705                             | Applicable               | Requires that for any surface water, existing and anticipated uses and the water quality necessary to protect these uses must be maintained and protected unless degradation is allowed under the nondegradation rules at ARM 17.30.708.                                                                                                           | The beneficial uses outlined in ARM 17.30.622, 17.30.623, and 17.30.626 must be used to determine the “existing and anticipated uses.” <sup>2</sup>                                                                                                                                                                                                                                                                                                             | ✓        |          |        |
| 39 Montana Strip and Underground Mining Reclamation Act<br>ARM 17.24.633 | Relevant and Appropriate | Stormwater. All surface drainage from the disturbed area must be treated by the best technology currently available (BTCA). Sediment control through BTCA must be maintained until the disturbed area has been reclaimed, the revegetation requirements have been met, and the area meets state and federal requirements for the receiving stream. | Requirements will be met by common land reclamation practices (e.g., replanting and hydro seeding. Homeowners are educated on the maintenance of new yards. Additionally, remedial actions at the Site are not expected to result in runoff to surface water at OUs 4 through 8. Remedial actions will be halted if significant runoff is generated and will not resume until adequate runoff control measures (e.g., erosion matting, hay bales) are in place. |          |          | ✓      |

<sup>2</sup> The relevant beneficial uses are:

ARM 17.30.622 provides that waters classified A-1 (Rainy Creek drainage to the W.R. Grace & Co. water supply intake near the mill pond, *see* ARM 17.30.609) are to be maintained suitable, after conventional treatment for removal of naturally present impurities, for drinking, culinary and food processing purposes. These waters are also to be maintained suitable for bathing, swimming and recreation, growth and propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers, and use for agricultural and industrial water supply. This section provides also that concentrations of carcinogenic, bioconcentrating, toxic, radioactive, nutrient, or harmful parameters may not exceed standards set forth in Circular DEQ-7 Montana Numeric Water Quality Standards (DEQ-7 standards). The numerical standard for fibers longer than 10 microns in length of certain asbestos fibers, including amphibole, is based on the maximum concentration levels (MCL) for drinking water regulations of 7,000,000 fibers/liter. The concentration may not exceed this limit in any sample. This provision also sets limits on escherichia coli bacteria, reduction in dissolved oxygen, changes in pH, increases in turbidity and suspended sediment, increases in temperature, and increases in true color. Also, no increases are allowed above naturally-occurring concentrations of sediment or suspended sediment (except as permitted in 75-5-318 , MCA), settleable solids, oils, or floating solids, which will or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife.

Protection of the beneficial uses of the surface water may require a more stringent cleanup level than the MCL. Also, for fibers less than 10 microns in length (the MCL applies to fibers greater than 10 microns in length), the final cleanup level also must be protective of all beneficial uses.

ARM 17.30.623 provides that waters classified B-1 (Kootenai River, Carney Creek and Fleetwood Creek) are to be maintained suitable, after conventional treatment, for drinking, culinary, and food processing purposes. These waters are also to be maintained suitable for bathing, swimming and recreation, growth and propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers, and use for agricultural and industrial water supply. This section contains limits on the same parameters as those listed in ARM 17.30.622.

ARM 17.30.626 provides that waters classified C-1 (Rainy Creek main stem from the W.R. Grace Company water supply intake to the Kootenai River) are to be maintained suitable for bathing, swimming and recreation, growth and propagation of salmonid fishes and associated aquatic life, waterfowl and furbearers, and use for agricultural and industrial water supply. This section contains limits on the same parameters as those listed in ARM 17.30.622.

The remedy for OU3 will address all of the surface water ARARs, including the beneficial uses listed above and § 75-5-101, et seq., MCA, § 75-5-605, MCA, and ARM 17.30.637.

| Statute and Regulatory Citation                                                                                                             | ARAR Determination | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Chemical | Location | Action |
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| <b>State ARARs</b>                                                                                                                          |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |          |          |        |
| 40 ARM 17.30.601, et seq., and ARM 17.30.1301, et seq., including ARM 17.30.1341                                                            | Applicable         | <p>The substantive requirements of the general permit for stormwater for construction activities - General Permit for Storm Water Discharge Associated with Construction Activity, Permit No. MTR100000 (January 1, 2013) are applicable, <a href="http://deq.mt.gov/wqinfo/WPBForms/pdf/SW%20CONST%20PER.pdf">http://deq.mt.gov/wqinfo/WPBForms/pdf/SW%20CONST%20PER.pdf</a>.</p> <p>The substantive requirements of the general permit for industrial activities, including inactive mining operations that discharge storm water contaminated by contact with or that has come into contact with any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations, see 40 CFR 122.26(b)(14)(iii), General Permit for Stormwater Discharges Associated with Industrial Activity, Permit No. MTR000000 (February 1, 2013), <a href="http://deq.mt.gov/wqinfo/MPDES/StormWater/pdf/MT_R000000PER.pdf">http://deq.mt.gov/wqinfo/MPDES/StormWater/pdf/MT_R000000PER.pdf</a>.</p> | <p>All substantive requirements of the general permits will be met for all remedial actions that would trigger the requirement to obtain coverage under a general permit, if this were not a CERCLA site. Specifically, general permit coverage under MTR100000 is triggered for construction activities that include clearing, grading, grubbing, excavation, or other earth disturbing activities that disturb one or more acres and discharge storm water to state surface waters or to a storm sewer system that discharges to a state surface water. General permit coverage under MTR000000 is triggered for facilities conducting industrial activities that discharge storm water to state surface waters or to a storm sewer system that discharges to a state surface water.</p> <p>Generally, the permits require best management practices to prevent discharges of sediments and other pollutants. These BMPs include minimizing the area disturbed, minimizing soil compaction in areas that do not require excavation to address LA, and use of erosion/sediment controls on steep slopes.</p> |          |          | ✓      |
| 41 MWQA MCA 75-5-101, et seq., ARM 17.30.701 - ARM 17.30.718                                                                                | Applicable         | Nondegradation of water quality – for all state waters, existing and anticipated uses and the water quality necessary to protect those uses must be maintained and protected.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Existing and anticipated uses of state waters and the level of water quality necessary to protect those uses must be maintained and protected. Section 75-5-317, MCA, provides an exemption from nondegradation requirements that allows changes in existing water quality resulting from an emergency or remedial activity that is designed to protect public health and environment and is approved, authorized, or required by the department. Changes in water quality caused by these activities may be considered nonsignificant.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |          |          | ✓      |
| 42 Montana Floodplain and Floodway Management Act and Regulations, MCA 76-5-401 et seq. and implementing regulations, ARM 36.15.601 et seq. | Applicable         | The Floodplain and Floodway Management Act and regulations specify types of uses and structures that are allowed or prohibited in the designated 100-year floodway and floodplain. The Site is adjacent to the Kootenai River, and these standards are applicable to all actions within the floodplain.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | No alternatives include any of the specified uses or structures in the designated floodplain. This requirement would apply in the event that a disposal facility is identified and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |          | ✓        |        |

| Statute and Regulatory Citation                                                                                                                        | ARAR Determination | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Chemical | Location | Action |
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| <b>State ARARs</b>                                                                                                                                     |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |          |          |        |
| 43 Montana Floodplain and Floodway Management Act<br>MCA 76-5-401 et seq.,<br>ARM 36.15.602(5),<br>ARM 36.15.605,<br>ARM 36.15.703<br>ARM 36.15.218(1) | Applicable         | Solid and hazardous waste disposal and storage of toxic, flammable, hazardous, or explosive materials are prohibited anywhere in floodways or floodplains. The floodplain regulations provide for a variance process. The permit issuing authority may grant a variance for the new construction, substantial improvement or alteration of an artificial obstruction that is not in compliance with the minimum standards contained in these rules only if:<br><br>(a) the proposed use would not increase flood hazard either upstream or downstream in the area of insurable buildings;<br>(b) refusal of a variance would because of exceptional circumstances cause a unique or undue hardship on the applicant or community involved;<br>(c) the proposed use is adequately floodproofed; and<br>(d) reasonable alternative locations outside the designated floodplain are not available. | Contaminated soil and building materials will not be disposed of or stored in a floodplain or floodway. Disposal at the Libby Class II Landfill complies with this requirement, and any other disposal facilities for contaminated soils or building materials will be located outside of the floodplain or floodway, thus also meeting this requirement.                                                                                                                                                                                                 |          | ✓        |        |
| 44 Solid Waste Management Act<br>MCA 75-10-201 and implementing regulations<br>ARM 17.50.501, et seq.                                                  | Applicable         | The statute and regulations are applicable to the management and disposal of all solid wastes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Substantive requirements of this ARAR would be applicable for management or disposal of any contaminated soils or building materials that occurs on site.                                                                                                                                                                                                                                                                                                                                                                                                 |          |          | ✓      |
| 45 Solid Waste Management Act<br>MCA 75-10-201 and implementing regulations<br>ARM 17.50.503, et seq.                                                  | Applicable         | Sets forth definitions for types of solid wastes including Group III and IV wastes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Asbestos contaminated debris generated as part of the remedial action qualifies as Group IV waste and must be disposed of in a licensed Class II or IV landfill. Soil will be managed at an appropriate disposal facility. Compliance with this requirement is met through disposal of asbestos contaminated debris at the Libby Class II Landfill. This requirement would also be applicable in the event that another on-site disposal facility is identified and used to dispose of asbestos contaminated debris from OUs 4 through 8 within the Site. |          |          | ✓      |
| 46 ARM 17.50.1004                                                                                                                                      | Applicable         | A solid waste facility located within the 100-year floodplain may not restrict flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste that poses a hazard to human health or the environment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Because disposal at the Libby Class II Landfill is in compliance with this requirement, this ARAR would only be triggered in the event that another disposal facility in the floodplain is identified and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site.                                                                                                                                                                                                                                                 |          | ✓        |        |

| Statute and Regulatory Citation |                | ARAR Determination | Description                                                                                                                                                                                                                                                                                                                                                                                                            | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Chemical | Location | Action |
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| State ARARs                     |                |                    |                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |          |          |        |
| 47                              | ARM 17.50.1005 | Applicable         | A solid waste facility may not be located in a wetland, unless there is no demonstrable practical alternative.                                                                                                                                                                                                                                                                                                         | Wetlands exist within the Site. It is not anticipated that contaminated soil or building material will be disposed of within the wetlands at the Site as part of the remedy. Because disposal at the Libby Class II Landfill is in compliance with this requirement, this ARAR would only be triggered in the event that another disposal facility in a wetland is identified and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site.            |          | ✓        |        |
| 48                              | ARM 17.50.1006 | Applicable         | A solid waste facility may not be located within 200 feet of a fault that has had displacement in Holocene time unless the owner or operator submits to the department for approval a demonstration that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the solid waste facility and will be protective of human health and the environment.                 | The currently existing solid waste facility is not located within 200 feet of a fault that has had displacement in Holocene time. Because disposal at the Libby Class II Landfill is in compliance with this requirement, this ARAR would only be triggered in the event that another disposal facility is located within 200 feet of a fault that has had displacement in Holocene time and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site. |          | ✓        |        |
| 49                              | ARM 17.50.1007 | Applicable         | A solid waste facility may not be located in a seismic impact zone without demonstration, by a Montana licensed engineer, that the solid waste structure is designed to resist the maximum horizontal acceleration in lithified earth material for the site.                                                                                                                                                           | The currently existing solid waste facility is not located in a seismic impact zone. Because disposal at the Libby Class II Landfill is in compliance with this requirement, this ARAR would only be triggered in the event that another disposal facility is located on-site within a seismic impact zone and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site.                                                                               |          | ✓        |        |
| 50                              | ARM 17.50.1008 | Applicable         | A solid waste facility may not be located in an unstable area (determined by consideration of local soil conditions, local geographic and geomorphic features, and local artificial features or events, both surface and subsurface) without demonstration, by a Montana licensed engineer, that the solid waste facility is designed to ensure that the integrity of the structural components will not be disrupted. | The currently existing solid waste facility is not located in an unstable area. Because disposal at the Libby Class II Landfill is in compliance with this requirement, this ARAR would only be triggered in the event that another disposal facility is located in an unstable area and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site.                                                                                                     |          | ✓        |        |

| Statute and Regulatory Citation                                                                        | ARAR Determination | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Comment                                                                                                                                                                                                                                                                                                                                                                                                                            | Chemical | Location | Action |
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| <b>State ARARs</b>                                                                                     |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                    |          |          |        |
| 51 ARM 17.50.1009                                                                                      | Applicable         | Sets forth general requirements applying to the location of any solid waste facility. Among other things, the location must have sufficient acreage, including adequate separation of wastes from the underlying groundwater or adjacent surface water; it must be located where local roads are capable of providing access in all weather conditions and local bridges are capable of supporting vehicles with maximum rated loads; it must be located so as to prevent pollution of ground, surface, and private water supply systems; drainage structures must be installed where necessary to prevent surface runoff from entering waste management areas; and the location must allow for reclamation of the land. Subsection 1(c) requires that solid waste facilities not discharge pollutants in excess of state standards. A solid waste facility must contain a leachate collection system unless there is no potential for migration of a constituent in Appendix I or II to 40 CFR 258. | Compliance with this ARAR is met through use of the currently existing solid waste facility. Because disposal at the Libby Class II Landfill is in compliance with this requirement, this ARAR would only be triggered in the event that another disposal facility is identified and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site.                                               |          | ✓        |        |
| 52 Solid Waste Management Act<br>MCA 75-10-201 and implementing regulations<br>ARM 17.50 Subchapter 11 | Applicable         | Sets forth standards that all solid waste disposal sites must meet including run-on and run-off control system requirements, requirements that sites be fenced to prevent unauthorized access, and prohibitions of point source and nonpoint source discharges which would violate Clean Water Act requirements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Compliance with this ARAR is met through use of the currently existing solid waste facility. Because disposal at the Libby Class II Landfill is in compliance with this requirement, this ARAR would only be triggered in the event that another disposal facility is identified and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site.                                               |          |          | ✓      |
| 53 Solid Waste Management Act<br>MCA 75-10-201 and implementing regulations<br>ARM 17.50.1115          | Applicable         | The owner or operator of a solid waste management facility shall manage asbestos contaminated material in accordance with 40 CFR Part 61 subpart M as adopted by reference in ARM 17.74.351.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Compliance with this ARAR is met through use of the currently existing solid waste facility. Because disposal at the Libby Class II Landfill is in compliance with this requirement, this requirement would only be triggered in the event that another disposal facility is identified and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site.                                        |          |          | ✓      |
| 54 MCA 75-10-212 and implementing regulations<br>ARM 17.50.523                                         | Applicable         | For solid wastes, MCA 75-10-212 prohibits dumping or leaving any debris or refuse upon or within 200 yards of any highway, road, street, or alley of the State or other public property, or on privately owned property where hunting, fishing, or other recreation is permitted. ARM 17.50.523 specifies that solid waste must be transported in such a manner as to prevent its discharge, dumping, spilling, or leaking from the transport vehicle.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Solid waste will not be dumped or left upon or within 200 yards of any highway, road, street, or alley of the State or other public property, or on privately owned property where hunting, fishing, or other recreation is permitted. Leaving in place LA contamination that is less than the remedial action levels or meets the remedial clearance criteria pursuant to the engineered final remedy does not trigger this ARAR. |          |          | ✓      |

| Statute and Regulatory Citation                       | ARAR Determination | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Comment                                                                                                                                                                                                                                                                                                                                                                              | Chemical | Location | Action |
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| <b>State ARARs</b>                                    |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                      |          |          |        |
| 55 ARM 17.50.1204<br>ARM 17.50.1403<br>ARM 17.50.1404 | Applicable         | <p>Provide additional design criteria, ground water monitoring, corrective action, and closure requirements for Class II and IV landfills.</p> <p>ARM 17.50.1204 provides that solid waste facilities must either be designed to ensure that MCLs are not exceeded or the solid waste facility must contain a composite liner and leachate collection system that complies with specified criteria.</p> <p>ARM 17.50.1403 sets forth closure requirements for solid waste facilities. Solid waste facilities must meet the following criteria: (1) install a final cover that is designed to minimize infiltration and erosion; (2) design and construct the final cover system to minimize infiltration through the closed unit by the use of an infiltration layer that contains a minimum 18 inches of earthen material and has a permeability less than or equal to the permeability of any bottom liner, barrier layer, or natural subsoils or a permeability no greater than 1 X 10<sup>-5</sup> cm/sec, whichever is less; and (3) minimize erosion of the final cover by the use of a seed bed layer that contains a minimum of six inches of earthen material that is capable of sustaining native plant growth.</p> <p>ARM 17.50.1404 sets forth post-closure care requirements for solid waste facilities. Post-closure care must be conducted for a period sufficient to protect human health and the environment. Post-closure care requires maintenance of the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the cover and comply with the groundwater monitoring requirements found at ARM Title 17, chapter 50, subchapter 7.</p> | Compliance with this ARAR is met through use of the currently existing solid waste facility. Because disposal at the Libby Class II Landfill is in compliance with this requirement, this ARAR would only be triggered in the event that another disposal facility is identified and used to dispose of contaminated soil or building material from OUs 4 through 8 within the Site. |          |          | ✓      |

| Statute and Regulatory Citation                                                                      | ARAR Determination       | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Chemical | Location | Action |
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| <b>State ARARs</b>                                                                                   |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |          |          |        |
| 56 MCA 75-10-206                                                                                     | Applicable               | Provides for a variance from certain solid waste requirements where such variance would not result in a danger to public health or safety; or compliance with the rules from which a variance is sought would produce hardship without producing benefits to the health and safety of the public that outweigh the hardship.                                                                                                                                                                                                                                                                           | Compliance with this ARAR is met through use of the Libby Class II Landfill. This variance process would only be necessary in the event that another disposal facility is located on-site that does not meet the requirements of another solid waste ARAR. The analysis in subsection (a) is akin to the threshold requirement under CERCLA that a remedy provide overall protection of human health and the environment. Therefore, the solid waste ARARs should be able to be met or a variance granted, as long as the remedy is protective. It is anticipated that a variance will be not required for OUs 4 through 8. |          |          | ✓      |
| 57 Montana Endangered Species<br>MCA 87-5-106, 107, and 111<br>ARM 12.5.201                          | Applicable               | Endangered species must be protected in order to maintain and, to the greatest extent possible, enhance their numbers. These sections list endangered species, prohibited acts, and penalties. See also § 87-5-201, MCA, (applicable) concerning protection of wild birds, nests, and eggs.                                                                                                                                                                                                                                                                                                            | As of May 2013, species of concern to the State of Montana that may occur in Lincoln County includes 3 amphibians, 2 reptiles, 17 birds, 8 mammals, 8 fish, 10 invertebrates, and 46 plants. If State threatened or endangered species are identified within the remedial areas, activities must be designed to conserve the species and their habitat.                                                                                                                                                                                                                                                                     |          |          | ✓      |
| 58 Montana Antiquities Act,<br>MCA 22-3-421, et seq.                                                 | Relevant and Appropriate | Montana Antiquities Act addresses the responsibilities of State agencies regarding historic and prehistoric sites including buildings, structures, paleontological sites, and archaeological sites on state owned lands. Each State agency is responsible for establishing rules regarding historic resources under their jurisdiction which address National Register eligibility, appropriate permitting procedures and other historic preservation goals. The State Historic Preservation Office maintains information related to the responsibilities of State Agencies under the Antiquities Act. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |          | ✓        |        |
| 59 Montana Human Skeletal Remains and Burial Site Protection Act (1991),<br>MCA 22-3-801 et seq.     | Applicable               | The Human Skeletal Remains and Burial Site Protection Act is the result of years of work by Montana Tribes, State agencies and organizations interested in ensuring that all graves within the State of Montana are adequately protected.                                                                                                                                                                                                                                                                                                                                                              | If human skeletal remains or burial sites are encountered during remedial activities within the Libby Asbestos Superfund Site, then these requirements will be applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                  |          | ✓        |        |
| 60 Noxious Weeds,<br>MCA 7-22-2101(8)(a) and Section 7-22-2109(2)(b),<br>MCA<br>ARM 4.5.201, et seq. | Applicable               | MCA 7-22-2101(8)(a) "noxious weeds" must be managed consistent with weed management criteria developed under MCA 7-22-2109(2)(b).                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Reclamation includes planting weed-free grasses.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |          |          | ✓      |

| Statute and Regulatory Citation                                                 | ARAR Determination | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Comment                                                                     | Chemical | Location | Action |
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| <b>State ARARs</b>                                                              |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                             |          |          |        |
| 61 Noxious Weeds<br>Section 7-22-2101(7)(a), MCA<br>ARM 4.5.206 through 4.5.210 | Applicable         | Section 7-22-2101(7)(a), MCA, defines "noxious weeds" as any exotic plant species established or that may be introduced in the state which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated: (i) as a statewide noxious weed by rule of the department; or (ii) as a district noxious weed by a board, following public notice of intent and a public hearing.<br><br>Designated noxious weeds are listed in ARM 4.5.206 through 4.5.210.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                             |          |          | ✓      |
| 62 Noxious Weeds<br>Section 7-22-2152, MCA                                      | Applicable         | Requires that any person proposing certain actions including but not limited to a solid waste facility, a highway or road, a commercial, industrial, or government development, or any other development that needs state or local approval and that results in the potential for noxious weed infestation within a district shall notify the district weed board at least 15 days prior to the activity. The board will require that the areas be seeded, planted, or otherwise managed to reestablish a cover of beneficial plants. The person committing the action shall submit to the board a written plan specifying the methods to be used to accomplish revegetation at least 15 days prior to the activity. The plan must describe the time and method of seeding, fertilization practices, recommended plant species, use of weed-free seed, and the weed management procedures to be used. The plan is subject to approval by the board, which may require revisions to bring the revegetation plan into compliance with the district weed management plan. The activity for which notice is given may not occur until the plan is approved by the board and signed by the presiding officer of the board and by the person or a representative of the agency responsible for the action. The signed plan constitutes a binding agreement between the board and the person or agency. The plan must be approved, with revisions if necessary, within 10 days of receipt by the board. | Remedy will comply with substantive requirements of a weed management plan. |          |          | ✓      |



| Statute and Regulatory Citation |                      | ARAR Determination | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Comment                                                                                                                                                                                                                                                                                     | Chemical | Location | Action |
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| State ARARs                     |                      |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                             |          |          |        |
| 63                              | MCA 87-5-502 and 504 | Applicable         | Provide that a state agency or subdivision shall not construct, modify, operate, maintain or fail to maintain any construction project or hydraulic project which may or will obstruct, damage, diminish, destroy, change, modify, or vary the natural existing shape and form of any stream or its banks or tributaries in a manner that will adversely affect any fish or game habitat. The requirement that any such project must eliminate or diminish any adverse effect on fish or game habitat is applicable to the state in approving remedial actions to be conducted. The Natural Streambed and Land Preservation Act of 1975, MCA 75-7-101, et seq., (Applicable -- substantive provisions only) includes similar requirements and is applicable to private parties as well as government agencies. | Consultation with the Montana Department of Fish, Wildlife and Parks, and any conservation district or board of county commissioners (or consolidated city/county government) is encouraged during the designing and implementing of the remedial action for Libby Asbestos Superfund Site. |          | ✓        |        |