RESOLUTION NO. 1660

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBBY, MONTANA APPROVING AND ADOPTING REVISIONS TO THE LINCOLN COUNTY AIR POLLUTION CONTROL PROGRAM

WHEREAS, pursuant to 75-2-301(4), the City of Libby wishes to adopt revisions to the Lincoln County Air Pollution Control Program regarding outdoor burning which are more stringent than comparable state or federal standards and the Libby City Council finds that, based on information, peer-reviewed scientific studies, and other evidence submitted into the record in proceedings deliberating this matter, the proposed revisions would:

- Better Protect public health and the environment in the City of Libby in Lincoln County;
- Mitigate harm to the public health and the environment in the City of Libby; and
- Are achievable with current technology; and

WHEREAS, The Libby City Council also acknowledges information submitted into the record regarding costs to the City of Libby that are directly attributable to the proposed revisions.

NOW THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of Libby, Montana approves and adopts the revisions to the Lincoln County Air Pollution Control Program which are attached hereto and made a part of this Resolution and directs the same to be submitted, together with all pertinent evidence as required by 75-2-301, MCA, to the Lincoln County Commission for its consideration.

BE IT FURTHER RESOLVED that the City Council of the City of Libby, Montana submits the revisions to the Lincoln County Air Pollution Control Program for inclusion into the Montana state implementation plan.

Passed and approved this 27th day of February 2006.

Charlene Leckrone, City Council President

ATTEST:

Chris A. Erickson, City Clerk

HEALTH AND ENVIRONMENT REGULATIONS
CHAPTER 1: Control of Air Pollution
Subchapter 1: General Provisions

(Revised 27 February 2006)

75.1.101 **INTENT:** The purpose of this chapter is to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, and facilitate the enjoyment of the natural attractions of Lincoln County.

75.1.102: **SCOPE:** Unless otherwise indicated, the rules of Chapter 1 apply to activities and sources within the Air Pollution Control District.

75.1.103 **DEFINITIONS:** As used in this chapter, unless indicated otherwise, the following definitions apply:
(1) "Air Contaminant" means dust, ash, fumes, gas, mist, smoke, vapor or any particulate matter or a combination thereof present in the outdoor atmosphere.
(2) "Air Pollution Control District" means the geographical area designated on the attached map and as defined by the following Universal Transverse Mercator (UTM) coordinates:

Begin, 600000mE, 5370000mN; east to 620000mE, 5370000mN; south to 620000mE, 5340000mN; west to 600000mE, 5340000mN; north to 600000mE, 5370000mN.

(3) "Department" means the Lincoln County Environmental Health Department.
(4) "DEQ" means the Montana Department of Environmental Quality.
(5) "Emission" means a release into the outdoor atmosphere of an air contaminant.
(6) "EPA" means the US Environmental Protection Agency.
(7) "MAAQS" means Montana Ambient Air Quality Standards.
(8) "NAAQS" means National Ambient Air Quality Standards.
(9) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal government or an agency of the federal government, or any other legal entity and includes persons resident in Canada.
(10) "PM10" means particulate matter with an aerodynamic diameter of less than or equal to a nominal 10 micrometers.
(11) "PM2.5" means particulate matter with an aerodynamic diameter of less than or equal to a nominal 2.5 micrometers.

75.1.104 **SELECTION & IMPLEMENTATION OF CONTINGENCY MEASURE PROGRAMS:**
(1) Upon notification by DEQ or EPA that the Air Pollution Control District has failed to attain NAAQS/MAAQS or make reasonable further progress in reducing emissions, the Department shall determine the source(s) contributing to the violation and designate the associated contingency measure(s) to be implemented. The Department shall identify sources of contribution based upon documented observations of emission sources and corresponding EPA reference method monitoring data.
(2) Unless otherwise prohibited by Section 75.1.104(2)(d), and within 60 days of notification from DEQ or EPA, the Department shall implement the following contingency measure(s) to reduce emissions from a source(s) identified as a contributor.
(a) If residential wood burning is determined to be a contributing source, the Department shall implement Section 75.1.208.

(b) If re-entrained dust is determined to be a contributing source, the Department shall implement Section 75.1.307.
(c) If industrial facility emissions are determined to be a contributing source, DEQ shall initiate contingency measures to reduce emissions.
(d) The Department shall address failure to attain NAAQS or to make reasonable further progress in reducing emissions attributable to natural events or impacts generating activities occurring outside state or local jurisdictional control according to EPA policy while initiating interim contingency measures at the local level.
(e) If no emission source(s) can be identified as a contributor, the Department shall conduct a comprehensive review, including chemical and microscopic filter analysis. Until such time as the review and analyses have been completed, the Department shall implement at least one of the above contingency measures on an interim basis. Any selected interim contingency measure(s) shall remain in effect until the Department completes a comprehensive review and determines whether a permanent contingency measure is necessary.

(3) Early voluntary implementation of a contingency measure shall not result in a requirement to develop additional moderate area contingency measures if the area later fails to attain the NAAQS/MAAQS or make reasonable further progress in reducing emissions. However, redesignation could necessitate additional control measures including Best Available Control Measures (BACM), Best Available Control Technology (BACT) and/or additional contingency measures.

75.1.105 <u>ENFORCEABILITY:</u>
The provisions of the regulations in this ordinance are enforceable by the Lincoln County Environmental Health Department authorities and/or appropriate law enforcement officials.

75.1.106 <u>CONFLICT OF ORDINANCES:</u>
(1) In any case where a provision of these regulations is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of any City of, Town of, or of the County of Lincoln, the provision which, in the judgment of the Health Officer, established the higher standard for the promotion and protection of the health and safety of the people shall prevail.
(2) If any portion of these regulations should be declared invalid for any reason whatsoever, such decision shall not affect the validity of the remaining portion(s) of the ordinance and such portions shall remain in full force and effect.

SUBCHAPTER 2: SOLID FUEL BURNING DEVICE REGULATIONS

75.1.201 <u>INTENT:</u>
(1) A regulation reducing the levels of particulate air pollutants to or below levels of the NAAQS/MAAQS.
(2) This regulation is necessary to preserve, protect, improve, achieve and maintain such levels of air quality as will protect the health and welfare of the citizens of Lincoln County.

75.1.202 <u>SCOPE AND EFFECTIVE DATE:</u>
(1) This regulation applies to all persons, agencies, institutions, businesses, industries or government entities living in or located within the Air Pollution Control District except for sources exempt from local regulation under 75-2-301(5), MCA.
(2) The effective date of this sub-chapter is January 1, 2007.

75.1.203 <u>DEFINITIONS:</u> As used in this subchapter, unless indicated otherwise, the following definitions apply:

(1) "Opacity" means a measurement of visible emissions defined as the degree expressed in percent to which emissions reduce the transmission of light and obscure the view of an object in the background.
(2) "Operating Permit" means a permit issued by the Department that allows the use of a solid fuel burning device within the boundaries of the Air Pollution Control District.
(3) "Pellet Fuel Burning Device" means a solid fuel burning device that burns only automatically fed biomass, pelletized fuels.
(4) "Solid Fuel Burning Device" means any fireplace, fireplace insert, wood stove, pellet stove, pellet furnace, wood burning heater, wood-fired boiler, wood or coal-fired furnace, coal stove, or similar device burning any solid fuel used for aesthetic, cooking or heating purposes which has a rated capacity of less than 1,000,000 BTU's per hour.
(5) "Standard Catalytic Device" means a solid fuel burning device with a catalytic emissions control system that has been certified by EPA test method as having emissions <4.1 grams/hour.
(6) "Standard Non-Catalytic Device" means a solid fuel burning device with a non-catalytic emissions control system that has been certified by EPA test method as having emissions <7.5 grams/hour.

75.1.204 <u>OPERATING & EMISSION LIMITS:</u>

(1) No person may install or operate any type of solid fuel burning device without a valid Operating Permit issued by the Department.
(2) No person may burn any material in a solid fuel burning device except uncolored newspaper, untreated wood and lumber, and products manufactured for the sole purpose of use as a solid fuel. Products manufactured or processed for use as solid fuels must conform to any other applicable provisions of this subchapter.
(3) In the absence of an Air Pollution Alert, no person operating a solid fuel burning device may cause or allow the discharge of visible emissions greater than twenty percent opacity. The provisions of this section do not apply to visible emissions during the building of a new fire, for a period or periods aggregating no more than twenty minutes in any four-hour period.
(4) During an Air Pollution Alert, no person operating a solid fuel burning device that is permitted for use during an Alert may cause or allow the discharge of visible emissions greater than ten percent opacity. The provisions of this subsection shall not apply during the building of a new fire, for a period or periods aggregating no more than twenty minutes in any four-hour period. No person may operate a standard catalytic or non-catalytic solid fuel burning device during an Air Pollution Alert.

75.1.205 <u>SOLID FUEL BURNING DEVICE PERMITS:</u>

(1) Prior to installing or operating a solid fuel burning device in any residential or commercial property, a person shall apply to the Department for a permit and provide the following information:
- (a) the owner/operator of the device;
- (b) contact information for the device owner/operator;
- (c) location of the device;
- (d) device manufacturer & model;
- (e) type of device (rating); and
- (f) any other relevant information for the Department to determine whether it satisfies the requirements of this regulation.

(2) The Department may issue Operating Permits for the following types of solid fuel burning devices:
- (a) **Standard catalytic devices**. The Department may issue an Operating Permit for a catalytic solid fuel burning device. Standard catalytic devices may not be operated during an Air Pollution Alert. Implementation

of the contingency measure in 75.1.208 would automatically invalidate the operating permit for this type of device.

(b) **Standard non-catalytic devices**. The Department may issue an Operating Permit for a non-catalytic solid fuel burning device. Standard non-catalytic devices may not be operated during an Air Pollution Alert. Implementation of the contingency measure in 75.1.208 would automatically invalidate the operating permit for this type of device.

(c) **Pellet fuel burning devices**. The Department may issue an operating permit for a biomass pellet fuel burning device. Pellet fuel burning devices may be operated during an Air Pollution Alert. Implementation of the contingency measure in 75.1.208 would not invalidate the operating permit for this type of device.

(3) Unless otherwise invalidated by implementation of a contingency measure or future changes in solid fuel burning device regulations, Operating Permits are valid until the named owner/operator changes or the device is removed or modified in any way. Permits may not be transferred from person to person or from place to place.

(4) An Operating Permit for a solid fuel burning device may be revoked by the Department for non-compliance with these regulations or Operating Permit conditions.

75.1.206 AIR POLLUTION ALERTS:

(1) The Department may declare an Air Pollution Alert to be in effect whenever ambient PM concentrations, as averaged over a four hour period, exceed a level 20 percent below any state or federal ambient 24-hour standard established for particulate matter; and when scientific and meteorological data indicate the average concentrations will remain at or above these levels over the next 24 hours.

(2) The Department may also declare an Air Pollution Alert to be in effect whenever scientific and meteorological data indicate that the ambient PM concentrations over any four-hour period within the next twenty—four hours may reasonably be expected to exceed a level 20 percent below any state or federal ambient 24-hour standard established for particulate matter.

(3) No person shall be subject to any violation of 75.1.204(4) for three hours after the Department declares an Air Pollution Alert and makes that information reasonably available to the public.

75.1.207 PENALTY ASSESSMENTS:

(1) The Department shall issue a "Notice of Violation" for any documented violation. The first notice of violation issued is a warning to the violator and will include educational and compliance information on air pollution regulations.

(2) For a second and any subsequent violations, the Department shall process each notice of violation for a Civil Penalty Assessment of $25.00 per violation.

(3) No person or entity may be cited for a violation more than once in any calendar day. However, the Department may issue a notice of violation for each calendar day of violation and each such notice is considered as a separate violation.

75.1.208 CONTINGENCY MEASURES:

(1) If compliance with NAAQS/MAAQS are not achieved or compliance levels are not maintained, and the Department determines that solid fuel burning device emissions are a contributor to non-compliance, the Department shall implement the following control measure:

(a). No person may operate a solid fuel burning device except a biomass pellet fuel burning device with a valid operating permit issued by the Department.

SUBCHAPTER 3: DUST CONTROL REGULATIONS:
Control Measures For Roads, Parking Lots And Commercial Lots

75.1.301 INTENT: Regulations enacting an emission control plan within the Air Pollution Control District to meet NAAQS for particulate matter by requiring dust abatement and control.

75.1.302 SCOPE & EFFECTIVE DATE:
(1) This regulation applies to all persons, agencies, institutions, businesses, industries or government entities living in or located within the "Regulated Road Sanding and Sweeping District."
(2) The effective date of this subchapter is January 1, 2007.

75.1.303 DEFINITIONS: As used in this subchapter, unless indicated otherwise, the following definitions apply:
(1) "Areas of Public Safety Concern" means specific areas that may include, but are not necessarily limited to: roadways with steep grade hills; roadways around public school facilities; and parking areas for medical, senior or public school facilities.
(2) "Commercial Yard/Lot" means a parcel of land located off the public right-of-way with uses that may include, but are not necessarily limited to, logging yards, bus lots, store and shopping parking areas, construction firms, trucking/transportation firms, and industrial facility sites.
(3) "Emergency Situation" means a situation when:
(a) Liquid de-icing agents and/or de-icing salts become unavailable due to circumstances beyond the control of the person, government or private entity maintaining a roadway, alley, parking lot or commercial yard/lot or;
(b) due to extreme weather conditions, or hazardous roadways, liquid de-icing agents and/or de-icing salts do not provide adequate traction for public safety.
(4) "Parking Lot" means a parcel of land located off of the public right-of-way which is not less than 5,000 square feet in size and which is primarily used for the temporary storage of motor vehicles. A parking lot as used in this regulation does not include lots for the storage of special mobile equipment as defined in 61-1-101(59), MCA.
(5) "Prioritized Street Sweeping and Flushing" means a schedule of street sweeping and/or flushing which cleans streets with the highest traffic volumes first and proceeds in descending order of traffic volume to streets with the lowest traffic volume. When all ice-free streets have been cleaned the cycle is immediately repeated.
(6) "Reasonably Available Control Technology" means
(a) During winter, prioritized street sweeping and flushing of streets with accumulated carry-on or applied materials shall commence on the first working day after the roadbed becomes ice-free and temperatures remain above freezing.
(b) During summer, street sweeping and/or flushing which is accomplished on an as-needed basis to remove any accumulated carry-on or applied materials, with priority given to streets with the highest traffic volumes.
(7) "Regulated Road Sanding and Sweeping District" means the geographical area designated by the attached map, wherein the regulations of this sub-chapter apply, and defined as follows:
Point of beginning: intersection of Pipe Creek Road and Highway 37 North, follow Highway 37 south to Thomas Road then west-northwest along the Kootenai River to the west end of Jay-Effar Road; then west-southwest across Highway 2 to Parsnix

Way; then south-southeast along the base of the foothills, crossing Flower Creek Road and Main Avenue, to Reese court; then south along Cabinet Heights Road and Westgate to Snowshoe Road; then North-northeast on Shaughnessy Road to Highway 2; then east to Libby Creek; then north following the streambank of Libby Creek to the Kootenai River; then west-northwest along the Kootenai River to Highway 37; then north on Highway 37 to the point of beginning.

(8) "Road" means any road or alley which is greater than 50-feet in length and which has or is projected to have an average traffic volume greater than 50 vehicles per day.

(9) "Summer" means the months of May, June, July, August, September and October.

(10) "Winter" means the months of November, December, January, February, March and April.

75.1.304 LIMITATION ON USE AND ON APPLICATION OF MATERIALS:

(1) No person may allow vehicular operation on any road, parking lot or commercial yard/lot that is not paved or otherwise surfaced or treated to prevent vehicular carry-on and wind-borne entrainment of dust.

(a) If an emergency situation arises that requires vehicular operation in/on an untreated area, the Department may authorize utilization of the area during the course of the emergency provided alternative methods are implemented to minimize carry-on or entrainment.

(2) With the exception of "Emergency Situations" and "Areas of Public Safety Concern", sanding materials may not be applied. Only liquid de-icing agents and/or de-icing salts may be used on roads, parking lots and commercial yards/lots.

(3) No person may place any sanding or chip seal material on any road, parking lot or commercial yard/lot which has a durability, as defined by the Montana Modified LA Abrasion Test, of greater than 7, and a fines content of material smaller than 200 mesh, as determined by standard wet sieving methods, that exceeds 3 percent oven dry weight.

(4) A person, prior to application, shall test materials proposed for use as sanding or chip seal material and provide the Department laboratory test data demonstrating that the material meets the specified requirements for durability and fines content.

75.1.305 STREET SWEEPING & FLUSHING:

(1) Any person responsible for the maintenance of a road shall implement and maintain a schedule of prioritized street sweeping and flushing.

(2) Reasonably available control technology shall be utilized to assure timely removal of carry-on or applied accumulations from all roads.

75.1.306 SPECIFIC MEASURES FOR COMMERCIAL YARDS/LOTS:

(1) Operators of all commercial yards/lots shall implement measures to prevent the collection and deposition of dust from equipment wheels and chassis.

(2) Operators of all commercial yards/lots shall implement dust suppression measures (chemical dust suppressants, dust oiling, watering, etc.) in bare, undeveloped areas of the property(ies) to eliminate fugitive air-born dust.

(3) Operators of all commercial yards/lots shall clean carry-on material generated from their facility from adjoining roadways in a timely manner.

75.1.307 CONTINGENCY MEASURES:

(1) If compliance with NAAQS is not achieved or compliance levels are not maintained, and the Department determines that re-entrained dust emissions contribute to non-compliance, the Department shall implement the following control measure:

(a) The Regulated Road Sanding and Sweeping District shall be extended to the boundaries of the Air Pollution Control District.
(b) Control measures in place for the Regulated Road Sanding and Sweeping District shall apply throughout the entire Air Pollution Control District.

75.1.308 MATERIALS APPLICATION OUTSIDE THE DISTRICT:
(1) For all areas of the Air Pollution Control District that lie outside of the Regulated Sanding and Sweeping District, each person or government or private entity is strongly encouraged to reduce the amount of sanding materials applied, taking into consideration public safety and air quality.
(2) Outlying areas and low traffic volume roads should have a low priority.
(3) Residential areas may receive less sanding material because of lower speeds.
(4) Adding salt compounds to conventional sanding materials reduces the total amount of sand applied.
(5) Vehicles used for winter driving should be equipped with winter tires or traction devices.

SUBCHAPTER 4: OUTDOOR BURNING REGULATIONS

75.1.401 INTENT:
(1) Local geographic features and concentrations of populations in Libby and the immediate surrounding area necessitate rules and regulations concerning the outdoor burning of waste materials.
(2) Experience has demonstrated that air quality degradation and public health problems are often associated with the improper burning of waste materials in both urban and suburban areas.
(3) The purpose of this regulation is to improve air quality and meet NAAQS/MAAQS for particulate matter by restricting non-essential outdoor burning, promoting alternative disposal methods and recycling, and setting standards to minimize emissions when outdoor burning is required.

75.1.402: SCOPE AND EFFECTIVE DATE:
(1) This regulation applies to all persons, agencies, institutions, businesses, industries or government entities living in or located within the boundaries of the Air Pollution Control District and Impact Zone L and to all licensed landfills within the boundaries of Lincoln County.
(2) The effective date of this sub-chapter is April 15, 2006.

75.1.403 DEFINITIONS:
(1) "Best Available Control Technology" (BACT) means those techniques and methods of controlling emissions of pollutants from an existing or proposed outdoor burning source which limit those emissions to the maximum degree which the Department determines, on a case-by-case basis, is achievable for that source, taking into account impacts on energy use, the environment, and the economy, and any other costs, including cost to the source.
Such techniques and methods may include the following: scheduling of burning during periods and seasons of good ventilation; applying dispersion forecasts; utilizing predictive modeling results performed by and available from DEQ to minimize smoke impacts; limiting the amount of burning to be performed during any one time; using ignition and burning techniques which minimize smoke production; selecting fuel preparation methods that will minimize dirt and moisture content; promoting fuel configurations which create an adequate air to fuel ratio; prioritizing burns as to air quality impact and assigning control techniques accordingly;

promoting alternative treatments and uses of materials to be burned; and selecting sites that will minimize smoke impacts. BACT for all residential and management outdoor burning includes burning only as authorized by and during the time periods specified by the Department.

(2) "Bonfire" means a ceremonial fire or small recreational fire, in which the materials burned are cordwood or clean untreated dimensional wood and which is conducted by an educational, fraternal or religious organization for the purpose of celebrating a particular organization-related event or for a social gathering, picnic, campout, fireside singalong, etc.

(3) "Christmas Tree Waste" means wood waste from commercially grown Christmas trees left in the field where the trees were grown, after harvesting and on-site processing.

(4) "Conditional Open Burning Permit" means a permit issued to conduct outdoor burning at a licensed landfill.

(5) "Emergency outdoor burning" means an event beyond individual control that necessitates the use of outdoor burning in order to dispose of a substance that poses an immediate threat to public health and safety, or plant or animal life, and for which no alternative method of disposal is reasonably available.

(6) "Impact Zone L" means all of the land within the following boundaries: Beginning at Kootenai Falls, going southeast to Scenery Mountain, then south to Indian Head, then south to Treasure Mountain, then south to Mount Snowy, then east to Double N Lake, then across Highway 2 going northeast to McMillan Mountain, then north to Swede Mountain, then northeast across Highway 37 to the Vermiculite Mine, then west to Sheldon Mountain, then west-northwest to Flagstaff Mountain, then southwest to Kootenai Falls, the point of beginning.

(7) "Libby Outdoor Burning Control Area" means all of the land included with the boundaries of the Air Pollution Control District and Impact Zone L, including the City of Libby.

(8) "Licensed Landfill" means a solid waste disposal site that is licensed for operation by DEQ.

(9) "Licensed Landfill Outdoor Burning" means burning at a licensed landfill pursuant to a conditional outdoor burning permit.

(10) "Major Open Burning Source" means any person, agency, institution, business or industry conducting any outdoor burning that, on a statewide basis, will emit more than 500 tons per calendar year of carbon monoxide or 50 tons per calendar year of any other pollutant regulated under ARM 17.8.101 et seq., except hydrocarbons.

(11) "Management Burning" means any person, agency, institution, business or industry conducting any outdoor burning for any purpose except residential burning, including forestry/wildlife management, licensed landfill management, firefighter training exercises, commercial film productions, or fuel hazard reduction which is designated as necessary by a fire protection agency.

(12) "Outdoor Burning" means the combustion of any material directly in the open air without a receptacle, or in a receptacle other than a furnace, multiple chambered incinerator, or wood waste burner, with the exception of unexploded ordnance, small recreational fires (including bonfires), construction site heating devices used to warm workers, or safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants or elemental phosphorus plants.

(13) "Residential Burning" means any outdoor burning conducted on a residential, farm or ranch property to dispose of vegetative wastes.

(14) "Salvage operation" means any operation conducted in whole or in part to salvage or reclaim any product or material, except the silvicultural practice commonly referred to as a salvage cut.

(15) "Trade wastes" means solid, liquid or gaseous material resulting from construction or operation of any business, trade, industry or demolition project.

Wood product industry wastes such as sawdust, bark, peelings, chips, shavings, branches, limbs and cull wood are considered trade wastes. Trade wastes do not include Christmas tree waste or wastes generally disposed of by residential outdoor burning or management outdoor burning, as defined in these regulations.

75.1.404 OUTDOOR BURNING CONTROL AREAS:

(1) Outdoor burning regulations shall apply to all outdoor burning activities within the boundaries of the Air Pollution Control District and/or Impact Zone L. The Department may issue restrictions and prohibit outdoor burning activities within these boundaries.

(2) Restrictions and permitting regulations for Licensed landfills shall apply throughout the boundaries of Lincoln County.

75.1.405 PROHIBITED MATERIALS & ACTIVITIES:

(1) 40 Code of Federal Regulations (CFR) Part 261, which identifies and defines hazardous wastes, is hereby incorporated by reference.

(2) Except as specifically provided under ARM 17.8.604 for firefighter training, commercial film production and licensed landfills; the following materials may not be disposed of by outdoor burning:

(a) any waste moved from the premises where it was generated;
(b) food wastes;
(c) styrofoam and other plastics;
(d) wastes generating noxious odors;
(e) wood and wood by-products that have been treated, coated, painted, stained, or contaminated by a foreign material, such as papers, cardboard, or painted or stained wood;
(f) poultry litter;
(g) animal droppings;
(h) dead animals or dead animal parts;
(i) tires;
(j) rubber materials;
(k) asphalt shingles;
(l) tar paper;
(m) automobile or aircraft bodies and interiors;
(n) insulated wire;
(o) oil or petroleum products;
(p) treated lumber and timbers;
(q) pathogenic wastes;
(r) hazardous wastes as defined by 40 CFR Part 261;
(s) trade wastes;
(t) any materials resulting from a salvage operation;
(u) chemicals;
(v) Christmas tree waste;
(w) asbestos or asbestos-containing materials;
(x) standing or demolished structures; and
(y) paint.

(3) The burning of stumps, the burning of grass clippings and leaves, and overnight smoldering of burns is prohibited.

(4) Burning on any city or county street, road or alley is prohibited.

(5) The use of burn barrels, or other unapproved devices, is prohibited.

75.1.406 OUTDOOR BURNING PERIODS: Various types of outdoor burning activities are limited to the following time periods:

(1) **Residential burning – April 1 through April 30:**

(a) Residential Outdoor Burning may be conducted during the month of April.

(b) In the event of unduly wet or wintry weather conditions during the month of April, the Department may extend the residential burning season into the month of May.

(c) No person may conduct residential outdoor burning at any other time during the year.

(2) **Management Burning – April 1 through October 31:**

(a) Management burns may be conducted throughout the management burning season of April 1 through October 31.

(3) **Closed Burning Periods – November 1 through March 31:**

(a) No person may conduct outdoor burning during the months of November, December, January, February and March.

(b) The Department may authorize exceptions for emergency outdoor burning after receiving the following information:

(i) facts establishing that alternative methods of disposing of the substance are not reasonably available;

(ii) facts establishing that the substance to be burned poses an immediate threat to human health and safety or plant or animal life;

(iii) the legal description or address of the site where the burn will occur;

(iv) the amount of material to be burned;

(v) the date and time of the proposed burn; and

(vi) the date and time that the spill or incident giving rise to the emergency was first noticed.

(c) Management burning in closed burning periods may be conducted based on a written demonstration of need from a fire protection agency and approval from the Department prior to each ignition.

75.1.407 <u>GENERAL COMPLIANCE & PERMITTING REQUIREMENTS:</u>

(1) Outdoor burning is allowed only on days with good ventilation/dispersion forecasts. The Department will make this determination based on available interagency meteorological information and local ambient particulate concentrations.

(2) All residential burners shall apply for and receive an Air Quality Permit from the Department prior to initiating any outdoor burn.

(3) All burners shall apply for and receive any necessary fire permit(s) from the jurisdictional fire protection agency prior to initiating any burn.

(4) All burners shall use alternative disposal methods when reasonably available.

(5) All burners shall utilize BACT.

(6) All residential burners shall call the Air Quality Hotline at 293-5644 prior to ignition and comply with established burning hours and any burning bans or other announced restrictions.

(7) All management burners shall contact the Department and receive approval prior to ignition of a planned burn. The Department may authorize, restrict, or prohibit proposed burns after reviewing meteorological dispersion forecasts and local conditions.

(8) Prior to conducting any outdoor burning, all major open burning sources shall apply for and receive an air quality major open burning permit pursuant to ARM 17.8.610.

75.1.408 <u>SPECIAL COMPLIANCE & PERMITTING REQUIREMENTS:</u>

(1) **Firefighter Training:**

(a) Prior to conducting outdoor burning sessions as part of their training program, Fire Departments shall apply for and receive a Firefighter Training Permit issued by DEQ.

(b) Any person planning Firefighter Training outdoor burning shall contact the Department and receive approval prior to conducting the training

burn. The Department may authorize, restrict, or prohibit proposed burns after reviewing meteorological dispersion forecasts and local conditions.

(c) Any person planning Firefighter training outdoor burning shall provide at least three weeks advance notice to all residents within a 1/4-mile or four-block radius of the proposed training site. The Department and County Health Officer shall evaluate any concerns about environmental or health impacts presented by surrounding residents prior to authorization or denial of the outdoor burning.

(2) **Commercial Film Production Burns:**

(a) Anyone planning to conduct Commercial Film Production outdoor burning shall apply for and receive a Commercial Film Production Permit issued by DEQ.

(b) Anyone planning Commercial Film Production outdoor burning shall contact the Department and receive approval prior to conducting outdoor burning. The Department may authorize, restrict, or prohibit proposed burns after reviewing meteorological dispersion forecasts and local conditions.

(3) **Fuel Hazard Reduction**:

(a) Any proposed burn for fuel hazard reduction must be designated as necessary by a fire protection agency.

(b) Anyone planning Fuel Hazard Reduction outdoor burning shall contact the Department and receive approval prior to conducting outdoor burning. The Department may authorize, restrict, or prohibit proposed burns after reviewing meteorological dispersion forecasts and local conditions.

(4) **Licensed Landfill Burns**

(a) All licensed landfills within the boundaries of Lincoln County must:

(i) Have an approved burn site, as designated in the solid Waste Management System License issued by the DEQ, pursuant to ARM Title 17, chapter 50, subchapter 5, before a Conditional Air Quality Open Burning permit may be issued.

(ii) Obtain a Conditional Air Quality Outdoor Burning Permit from the Department before burning. A new permit must be obtained for each burn.

(iii) Comply with all conditions of the permit.

(b) No licensed landfill within the boundaries of Lincoln County shall cause or allow the burning of untreated wood waste unless they have first applied for and received a permit for such outdoor burning from the Department.

(c) The Department may issue a conditional air quality open burning permit if the Department determines that:

(i) alternative methods of disposal would result in extreme economic hardship to the applicant; and

(ii) emissions from open burning will not endanger public health or welfare or cause or contribute to a violation of any NAAQS/MAAQS.

(d) The Department must be reasonable when determining whether alternative methods of disposal would result in extreme economic hardship to the applicant.

(e) Conditional outdoor burning must conform with BACT.

(f) The Department may issue a conditional air quality outdoor permit to dispose of untreated wood waste at a licensed landfill site, if the Department determines that:

(i) the proposed open burning will occur at an approved burn site as designated in the solid waste management system license issued by DEQ pursuant to ARM title 17, chapter 50, subchapter 5; and

(ii) prior to the issuance of the air quality open burning permit, the wood waste pile is inspected by the Department or its designated representative and no prohibited materials listed in 75.1.405(2), other than wood waste, are present.

(g) A permit issued under this rule is valid for a single burn of untreated wood waste at licensed landfill sites. A new permit must be obtained for each burn.

(h) The Department may place any reasonable requirements in a conditional air quality open burning permit that it determines will reduce emissions of air pollutants or minimize the impact of emissions and the recipient of a permit must adhere to those conditions.

(i) An application for a conditional air quality open burning permit must be made on a form provided by the Department. The applicant shall provide adequate information to enable the Department to determine whether the application satisfies the requirements for a conditional air quality open burning permit contained in this rule. Proof of publication of public notice, as required in section (j) of this rule, must be submitted to the Department before an application will be considered complete.

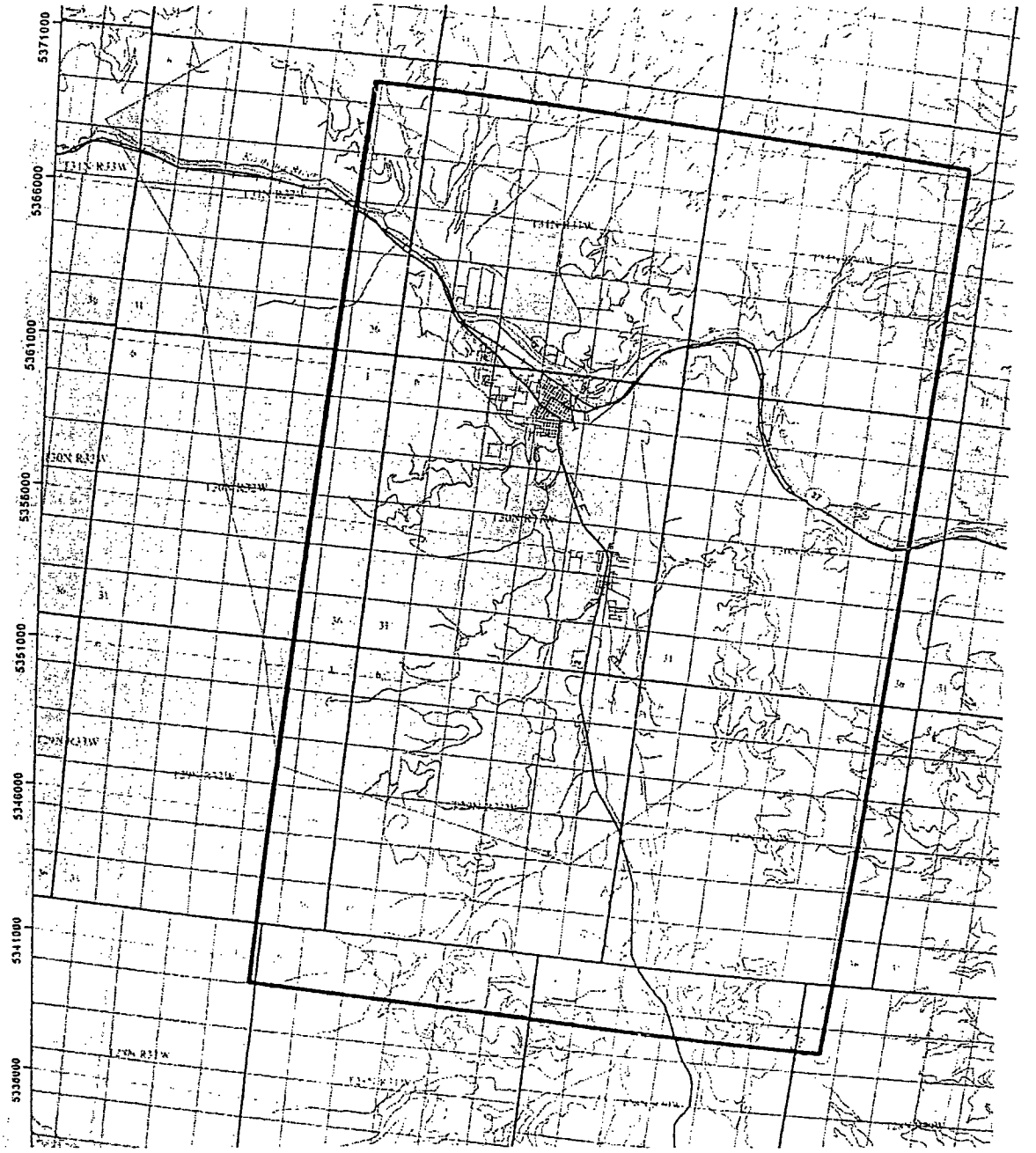
(j) An applicant for a conditional air quality open burning permit shall notify the public of the application by legal publication, at least once, in a newspaper of general circulation in the area affected by the application. The notice must be published no sooner than 10 days prior to submittal of an application and no later than ten days after submittal of an application. Form of the notice must be provided by the Department and must include a statement that public comments may be submitted to the Department concerning the application within 20 days after publication of notice or filing of the application, whichever is later. A single public notice may be published for multiple applications.

(k) When the Department approves or denies the application for a permit under 75.1.408(4), a person who is jointly or severally adversely affected by the decision may request a hearing before the Lincoln County Board of Health. The request for hearing must be filed within 15 days after the Department renders its decision and must include an affidavit setting forth the grounds for the request. The Department's decision on the application is not final unless 15 days have elapsed from the date of the decision and there is no request for a hearing under this section. The filing of a request for a hearing postpones the effective date of the Department's decision until the conclusion of the hearing and issuance of a final decision by the Lincoln County Board of Health.

75.1.409 PENALTY ASSESSMENTS:

(1) Any person who violates any provision of these regulations or any provision of any directive, action, permit, or approval adopted pursuant to the authority granted by these regulations, except for intentional violations of Section 75.1.405(2)(r), shall be, upon conviction, punished by a fine not less than $25 and not more than $200 for each offense. Violations of Section 75.1.405(2)(r), burning hazardous wastes as defined by 40 CFR Part 261, shall be, upon conviction, punished by a fine not to exceed $10,000 per day per violation.

(2) Each day of violation shall be considered a separate offense.


5371000
5366000
5361000
5356000
5351000
5346000
5341000
5336000