



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Institutional Controls

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Description:

- Institutional controls (ICs) are non-engineered, administratively and legally enforceable measures that limit human exposure to environmental chemicals of concern at properties seeking closure under Indiana Department of Environmental Management (IDEM) review.
- Institutional controls serve the purpose of notifying current and future land owners about environmental conditions and restrict certain uses of property that could result in unacceptable exposures to receptors.
- The most common type of IC approved by IDEM is an Environmental Restrictive Covenant (ERC). Others types of ICs that have been utilized include deed notices and some local ground water ordinances.
- ERCs may be used for any remediation program under IDEM's Office of Land Quality (OLQ) when approved as part of a site's remedial work plan.

Environmental Impact:

- An institutional control protects human health and the environment in cases where risk-based cleanups have resulted in known levels of contamination being left on site in soil, ground water or both.
- ICs minimize the potential for human exposure to residual contamination by restricting site activities, property use and/or site access. As an example, a landowner may promise or "covenant" not to develop a site for residential use and to use it only for commercial or industrial purposes.

IDEM's Role:

- The Indiana Department of Environmental Management (IDEM) is responsible for protecting human health and the environment while providing for safe industrial, agricultural, commercial and governmental operations vital to a prosperous economy.
- IDEM has the authority to enforce ERCs that are created in connection with any remediation, closure, cleanup or corrective action approved by IDEM per [Indiana Code 13-14-2-6](#).
- In accordance with [Indiana Code 13-11-2-193.5](#), IDEM ensures that ERCs meet the following criteria:
 - limit land use type (i.e., non-residential, industrial or commercial), restrict activities or list engineering controls to protect human health and the environment;
 - be recorded in the county recorder's office where the site is located;
 - be designed to obligate future property owners ('run with the land'); and,
 - explain how the ERC may be modified or terminated.
- IDEM's Office of Land Quality (OLQ) maintains a complete listing of all sites closed with the use of institutional controls under a data base and provides to the public a listing known as the [IDEM Institutional Controls \(IC\) Registry \[PDF\]](#).
- The IDEM IC Registry provides a list of all sites where Risk Integrated System of Closure guidelines allowed for a risk-based closure with some type of land use restrictions or engineering controls.
- The [IDEM Institutional Controls \(IC\) Registry \[PDF\]](#) is updated monthly by IDEM's OLQ.
- OLQ has begun implementation of an Institutional Control Audit Program whereby ICs are checked by IDEM staff. IC compliance checks at active underground storage tank sites will be inspected as part of OLQ Underground Storage Tank Program inspections. Active manufacturing sites with ICs will be inspected by OLQ Industrial Waste Group Inspectors.



Citizen's Role:

- Property owners are responsible for compliance with any land use restrictions regardless of when the property was obtained, unless another party has a legally enforceable responsibility to do so.
- If the property changes ownership, the obligations typically transfer over to the new property owner.
- Environmental Restrictive Covenants, the most common type of IC, are designed to obligate future property owners [[Indiana Code 13-11-2-193.5](#), [Indiana Code 32-20-3-2\(6\)](#)].

More Information:

- For institutional control related questions or concerns, please contact IDEM's Institutional Control Compliance Coordinator, Mr. Patrick Colcord via telephone at (317) 234-2513 or using electronic mail at pcolcord@idem.IN.gov.
- The IDEM Institutional Control Registry [PDF] may be obtained at www.IN.gov/idem/files/institutional_controls_registry_report.pdf.
- For additional information and frequently asked questions regarding institutional controls, please visit IDEM's Institutional Controls webpage at www.IN.gov/idem/5959.htm.

