

ITRC Technical Session



Long-term Contaminant Management Using Institutional Controls

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Problem

- ❖ **More sites are being managed using Institutional Controls**
- ❖ **Many States have limited, inadequate, or no process for implementing and/or managing Institutional Controls**
- ❖ **There has been no statewide assessment of the success of Institutional Controls**
- ❖ **There has been no assessment of the critical elements of a successful Institutional Control program**

Applicable Regulatory and Non Regulatory Programs

- ❖ **Involves multiple programs at many levels**
 - ❖ **State environmental regulatory programs**
 - ❖ **County and Municipal land-use programs**
 - ❖ **Federal environmental programs**

Legal Impediments

❖ **34% of ITRC States responding to the Survey claim legal impediment to the use of ICs**

Do any statutes, regulations, policies, or other legal impediments prohibit or limit the use of institutional controls (ICs) in your state (e.g., impediments to mandating the use of ICs, impediments to the use of ICs due to takings concerns at off-site properties).

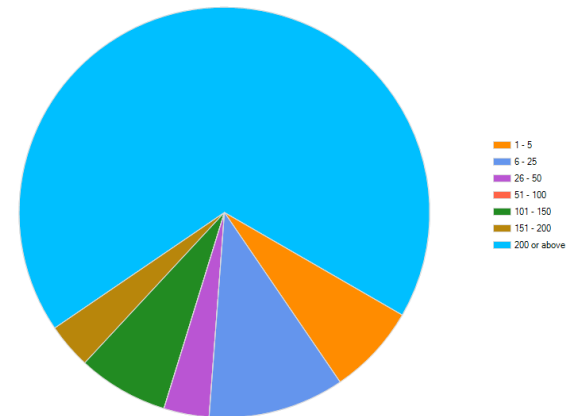


Existing ICs and the magnitude of the problem

Existing Institutional Controls

- ❖ **68% of ITRC States responding to the survey have 200 or more ICs in place in their state.**

How many institutional controls are in place in your State?

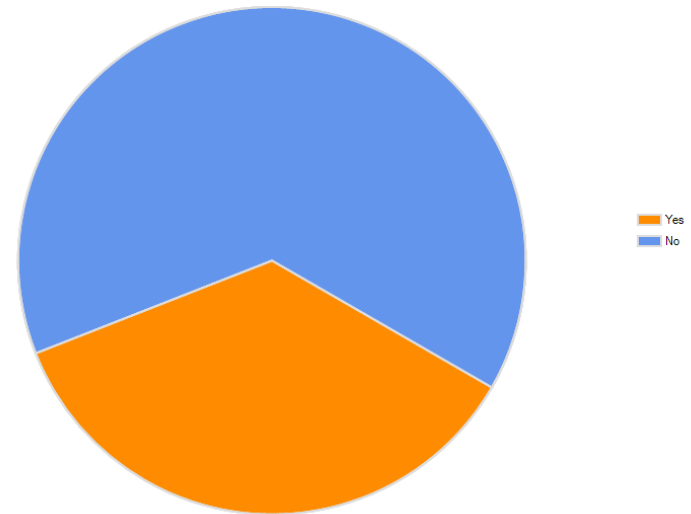


- ❖ **Appears to be ranging in states from 1-2 per year to greater than 200 per year being implemented.**

Selection and Implementation

- ❖ **64% of ITRC States responding to the survey do not have a standard procedure for selecting ICs across all state programs**

Does your State agency have a standard policy or procedure for selecting institutional control that applies across all State programs?



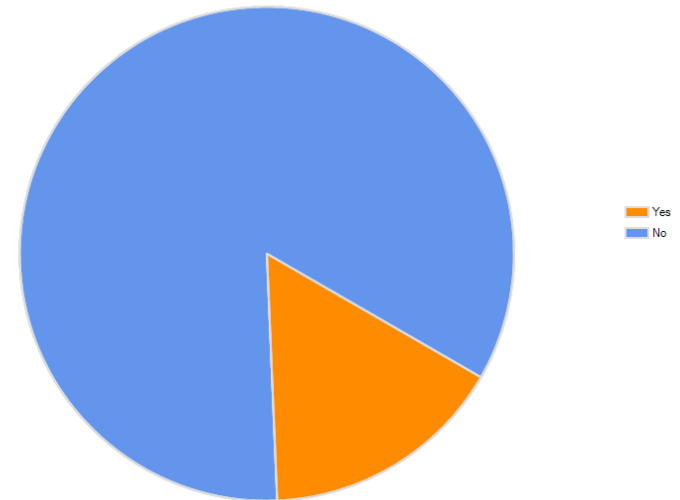
Monitoring

- ❖ **36% of ITRC States responding to the survey do not require monitoring of ICs and 18% have absolutely no monitoring program.**
- ❖ **Of the ITRC States that require or conduct monitoring, 64% have identified non-compliance.**
- ❖ **54% of ITRC States responding have never required a long term IC management plan.**
- ❖ **78% of ITRC State responding don't require financial assurance for ICs.**

Enforcement

❖ **84% of ITRC States responding to the survey have never taken an enforcement action on an IC**

Has your State agency ever taken an enforcement against a responsible party regarding an institutional control?



Solution

❖ **Develop a model program, based on successes and failures, which help those responsible for long-term stewardship of institutional controls. The document will be broken into following main categories:**

- 1. Guidance objectives and scope**
- 2. Selection (limited) and implementation**
- 3. Monitoring and tracking**
- 4. Data management**
- 5. Outreach and communication**
- 6. Enforcement**

Users

- ❖ **State regulatory agencies: Project Managers and Technical staff**
- ❖ **Federal (US EPA, DoD, DOE, DOI) Remediation Project Managers, Municipal and Local government**
- ❖ **Practitioners (remediation consultants, attorneys)**
- ❖ **Community stakeholders involved in land use, real estate transactions, community development, property ownership and tenants**
- ❖ **Problem holders (PRP's etc.)**

Case Studies

- ❖ **Successful application of institutional controls in states – case studies**
- ❖ **Challenges and failures - case studies and survey responses**
- ❖ **State Institutional Controls program case studies**
- ❖ **Federal institutional control programs examples**

Benefits

- ❖ **States can choose all or individual components of an IC program – outline key elements to aid in success.**
- ❖ **Properly managed institutional controls**
 - ❖ **Protect the integrity of the engineering controls in place at a contaminated site.**
 - ❖ **Ensure human health and the environment are protected throughout the life of the IC**

Open issues and questions for the group

- ❖ **Are institutional controls important to the remediation process – should they be utilized during active remediation?**
- ❖ **Should there be an exit strategy with these IC programs?**
- ❖ **Is it important that states manage institutional controls in the state?**