

# Questions & Answers: Institutional Controls

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## **Q: What is an institutional control?**

**A:** Institutional controls are measures taken to protect people, pets, and the environment from coming into contact with hazardous substances left behind after a cleanup is completed. These measures ensure that a cleanup works.

## **Q: What kinds of institutional controls are there?**

**A:** Different types of institutional controls may be used at a site or portions of a site. These include:

- Physical barriers such as a fence;
- Restrictive covenants that might apply to the use of the land or resources;
- If a structure or pavement is disturbed or removed, a cleanup may be required;
- Maintenance (a well or other barrier system may have to be periodically inspected and repaired when needed);
- Educational programs (signs, health advisories, mailings, and other efforts may be required to provide you with information that you need to protect your health and safety);
- Financial assurances (Burlington Northern and Santa Fe Railway Company [BNSF] may be required to show that they have enough money to cover all costs associated with the cleanup, including design, construction, monitoring, and any institutional controls); and
- Placement of notices in local zoning or building department records or state lands records, including the use of zoning maps describing land use restrictions.

## **Q: What institutional controls may be used at the BNSF-Skykomish site?**

**A:** Washington State Department of Ecology (Ecology) is working with the BNSF on cleanup plans for this site. It is too early to decide what controls may be used at this time. However, under Washington State law, Ecology must ensure that the cleanup meets requirements that will protect the health and safety of you and your family, as well as the environment. If controls are necessary, they will be designed to keep you from coming into contact with hazardous substances that are not removed or treated as part of the cleanup. Whatever remedy is selected may include a combination of measures.

Ecology staff will be in Skykomish on February 27, 2003, from 6:30-8:00p.m., at the Skykomish Community Center to present information about institutional controls. You also will have an opportunity to comment in Summer/Fall 2004 on proposed cleanup actions that will be described in the Cleanup Action Plan and any proposed institutional controls. Ecology encourages you to provide input into the decision-making process by working together in finding solutions for the Skykomish community.

**Q: What is a restrictive covenant? And how may it affect the use of my property?**

**A:** Restrictive covenants (also called deed restrictions or notices on the deed) are agreements between Ecology and a landowner that are filed with the county register of deeds along with property deeds/covenants and may be used to:

- Prohibit activities on a property that may get in the way of or undo cleanup activities that have been completed,
- Prohibit activities that may cause release of the hazardous substances being contained as part of the cleanup,
- Require a land owner to notify Ecology when someone purchases or leases the property,
- Require a land owner to limit their renter's use of the property to those activities or uses that do not interfere with a cleanup action,
- Require a land owner to notify purchaser(s) of property use restrictions,
- Require a land owner to notify renters of property use restrictions,
- Require a land owner to notify and receive approval from Ecology to use the property in a way that would not follow the restrictive covenant,
- Allow Ecology and its representatives access to the property to ensure that the cleanup is working (by taking samples, inspecting the site, or inspecting records).

City or county land use planners have an opportunity to comment on these covenants before they go into effect. These restrictions protect your health and safety, and that of the environment.

**Q: Can restrictions to my property be removed?**

**A:** If conditions at the site change so that controls are no longer required to protect your health and safety, and that of the environment, a property owner may request that Ecology remove the restriction(s). If Ecology approves the request, the restrictions may be removed after public notice and a public comment period are completed.

**For more information:**

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Institutional controls are covered under the Model Toxics Control Act Cleanup Regulation Chapter 173-340-440 WAC. The regulation can be reviewed on-line at Ecology's web site:  
[http://www.ecy.wa.gov/programs/tcp/regs/reg\\_main.html](http://www.ecy.wa.gov/programs/tcp/regs/reg_main.html).