

CHAPTER 5
PRINCIPLES OF AN INSTITUTIONAL CONTROL PROGRAM

5-1. Introduction.

a. This chapter discusses the principles to consider when developing an institutional control program. These items are described as principles because they apply uniformly to the development of all institutional control programs. These principles are featured in Table 5.1 and discussed in the following paragraphs.

Table 5.1 Principles for Developing an Institutional Control Program
<ul style="list-style-type: none">• An institutional control program is always appropriate on any site contaminated with OE.• All parties with interest in the property must be involved in the process.• Notice in various forms is useful in protecting communities from the harmful effects of misuse of OE contaminated lands.• Every institutional control program must have an assurance strategy that is developed along with the basic plan.• Multiple levels of control and layers are desirable for any institutional control program.• Records are necessary to evaluate the continued effectiveness of the institutional control program during recurring review.• The federal government should pay for separable costs of Institutional Controls if they are an expansion of normal responsibilities of local agencies.

5-2. An Institutional Control Program Is Always Appropriate On Any Site Contaminated With OE. When physical OE removal is conducted, the use of best technology, professional oversight and the epitome of quality assurance does not provide for the detection of all ordnance on the site. Therefore, the application of institutional controls is an appropriate mechanism to keep the public safe from OE hazards. The success of the institutional control program is based on the attitudes of the local institutions and community. Trust, commitment and responsibility must be communicated and accepted by all stakeholders and the Federal Government.

5-3. All Parties With Interest In The Property Must Be Involved In The Process. The foundation of an institutional control program is meaningful stakeholder involvement. Active involvement of the local officials and community is paramount to the development of local initiatives that will be supported and successfully implemented.

5-4. Notice In Various Forms Is Useful In Protecting Communities. The local institutions should make the decision regarding the type and extent of public notification. While notice is always beneficial for safety consideration, global community notice may alarm the public and have detrimental impacts. For example, property values may be adversely affected. Therefore, it is important for local officials to target only those groups impacted by OE decisions. For example, notice may be provided during the issuance of building permits to inform those individuals most likely to be effected (i.e., those engaged in excavation activities).

5-5. Every Institutional Control Program Must Have An Assurance Strategy. Because of safety issues inherent on an OE site, an assurance strategy is an important consideration during institutional controls planning. Forms of assurance include recognition of responsibilities at all levels of government and private citizens, state oversight, frequent communication, recurring review, elements of the maintenance requirements and a fastidious attitude toward keeping commitments at the Federal level. Only community action in the largest sense can determine adequate assurance.

5-6. Multiple Levels Of Control And Layers Are Desirable For Any Institutional Control Program. Designing layering or redundancy into an institutional control program will maximize the strengths of the individual controls while minimizing their limitations. Multiple levels of institutional controls help target different "at risk populations" and add to the stability of the system. For example, children that go to school near ordnance contaminated lands should be approached differently than construction workers who excavate for utilities. School programs and informing parents are essential in the former group and it may be more effective to issue a construction permit subject to elements of a safety plan based on the site-specific ordnance contamination to the construction company. Violation of the excavation safety plan developed during the removal project may result in voiding the construction permit. Delays, fines and penalties may provide sufficient incentive for compliance under those conditions. In general, we should avoid redundant regulations. Oversight, quality assurance and recurring review may add safety benefits.

5-7. Records Are Necessary To Evaluate The Continuing Effectiveness Of The Institutional Control Program During Recurring Review. Records must be maintained so the recurring review may assess the continuing commitment at all levels within the community. Any opportunity for enforcement must include records of implementation of the controls agreed upon during the project planning.

5-8. The Federal Government Should Pay Separable Costs Of Institutional Controls If They Are An Expansion Of Normal Responsibilities Of Local Agencies. Much of the proposed efforts under institutional controls is mandated by state and local law. If services required in the institutional control program are provided for under state or local funding, then the Federal Government is usually not obligated to fund these services.