

# FACT SHEET

## Brownfields Cleanup Program (BCP) INSTITUTIONAL AND ENGINEERING CONTROLS (IC/ECs) (see also ECL §§27-1405, 1415(7))

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**“Institutional Control”** shall mean any non-physical means of enforcing a restriction on the use of real property that limits human or environmental exposure, restricts the use of groundwater, provides notice to potential owners, operators, or members of the public, or prevents actions that would interfere with the effectiveness of a remedial program or with the effectiveness and/or integrity of operation, maintenance, or monitoring activities at or pertaining to a brownfield site.

**“Engineering Control”** shall mean any physical barrier or method employed to actively or passively contain, stabilize, or monitor hazardous waste or petroleum, restrict the movement of hazardous waste or petroleum to ensure the long-term effectiveness of a remedial program, or eliminate potential exposure pathways to hazardous waste or petroleum. Engineering controls include, but are not limited to, pavement, caps, covers, subsurface barriers, vapor barriers, slurry walls, building ventilation systems, fences, access controls, provision of alternative water supplies via connection to an existing public water supply, adding treatment technologies to such water supplies, and installing filtration devices on private water supplies.

### Features and Requirements

- If an IC/EC is used as a component of a site cleanup plan, the Remedial Work Plan must include:
  - a complete description of the IC/ECs and the mechanisms that will be used to implement, maintain, monitor, and enforce such restrictions and controls, both by the applicant and by any state and local government
  - an evaluation of the reliability, viability, and costs of the long-term implementation, maintenance, monitoring, and enforcement of any IC/EC.
- Financial assurance for the long-term maintenance, monitoring, and enforcement of IC/ECs may be required by the Department.
- Any EC must be used in conjunction with an IC.
- The final remediation report must include a certification that any IC/ECs are included in an environmental easement that has been duly recorded.
- An annual certification, unless agreed otherwise in writing by the Department, must be submitted to the Department that the IC/ECs are in place and protective of public health and the environment.
- The Department must create, update, and maintain a data base available to the public of sites using IC/ECs.
- Any proposal for a change in site use must include an evaluation of the impacts of the change on the viability, reliability, and effectiveness of any IC/ECs.