



Department of Energy
Washington, DC 20585
November 30, 2001

Docket Coordinator
Superfund Docket Office
Mail Code 5201G
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue
Washington, DC 20460

Subject: Docket Control Identifier IC-SURVEY

The purpose of this letter is to transmit U.S. Department of Energy (DOE) comments on the U.S. Environmental Protection Agency notice "Information Collection Activities; Proposed Collection; Comment Request; Institutional Controls Tracking Systems and Cost Survey" (66 FR 50182-50183, October 2, 2001).

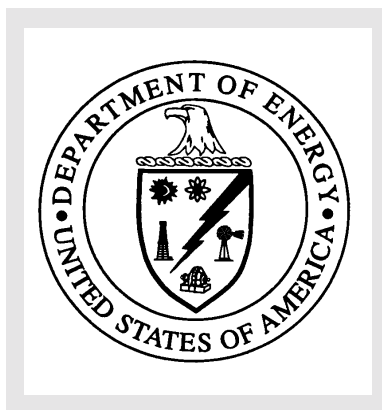
The Department appreciates the opportunity to comment on this Information Collection Activity, and supports the Agency's use of the collected information in developing a National Institutional Controls Tracking System. DOE also requests that EPA coordinate with affected Federal agencies during the development of such a tracking system.

An electronic copy of the DOE comments will be forwarded to the EPA contact person indicated in the aforementioned *Federal Register* Notice. If you have questions about the attached comments, please contact Mr. John Bascietto of my staff at (202) 586-7917 (e-mail john.bascietto@eh.doe.gov).

Sincerely,

A handwritten signature in cursive script that reads "Andy Lawrence".

Andy Lawrence
Director
Office of Environmental Policy and Guidance



UNITED STATES
DEPARTMENT OF ENERGY

COMMENTS ON
PROPOSED INFORMATION COLLECTION ACTIVITIES;
INSTITUTIONAL CONTROLS TRACKING SYSTEMS AND
COST SURVEY

(66 FR 50182-50183; October 2, 2001)

UNITED STATES DEPARTMENT OF ENERGY

Comments on Proposed Information Collection Request For Institutional Controls Tracking Systems and Cost Survey. (66 *FR* 50182-50183; October 2, 2001)

The U. S. Department of Energy (DOE) commends the U.S. Environmental Protection Agency (EPA) for proposing to collect information on existing tracking systems for institutional controls and the costs of developing and operating such systems. DOE supports EPA's use of the resulting data to aid the development of a National Tracking System for Institutional Controls. The development of such a system, however, will need to be accomplished in cooperation and consultation with all affected Federal agencies.

The topic of institutional controls is timely, particularly within Federal agencies such as DOE, where multiple industrial sites and remediated "operable units" (OU) are expected to have residual contamination above levels that would allow for unrestricted use. The Department's residual contamination sites will be managed in a program of long-term stewardship, necessitating the use of institutional controls. While it is expected that many DOE sites and their associated institutional controls will remain under Federal government management, it is possible and even likely that several residual contamination properties will be transferred (e.g., sold, leased) to non-Federal parties. In such instances, it will be necessary to continuously monitor and maintain the institutional controls that have been implemented to protect human health and the environment.

The following comments are divided into "General" and "Specific" sections and provided to assist the Agency in developing its Institutional Controls Tracking Systems and Costs Survey.

General Comments

1. The Final Information Request should specify the definition for Institutional Controls to be used by respondents in submitting their data. Representatives of DOE sites found the definition used in the Proposed Information Request and the accompanying survey documentation to be somewhat different from the definitions used by their corresponding EPA Regional Offices. The latter have alluded to including physical controls, such as fences and signs, as Institutional Controls, whereas the proposed Information Request appears to specifically exclude these types of controls. In order to obtain meaningful results from the Tracking Systems and Cost Survey, it is essential that all respondents understand exactly which types of Institutional Controls are to be addressed by their responses.
2. It should be also be clarified that the survey is intended to be developed for and answered by respondents who have first hand knowledge of implementing and tracking institutional

controls. If the stakeholders at hazardous sites are to be respondents to the survey, they, in particular, should be advised to focus their response on existing tracking systems on which they are familiar and have experience. To do otherwise could significantly bias the results, and could lead to collection of less useful and possibly confusing data. For example, at DOE sites, stakeholders could include the public, state regulators, local governments and Tribal Nations. Each diverse stakeholder group may have different expectations for long-term stewardship at their site(s), particularly with regard to their own roles and responsibilities, if any, for administering the Institutional Controls. Furthermore, although many DOE sites have some Institutional Controls already in place, in general, the total extent and use of Institutional Controls as part of the remedial actions at DOE sites has not been determined as of yet. The results of the survey could be jeopardized if the disparate expectations of the different stakeholder organizations with respect to administering institutional controls end up disproportionately influencing the responses to the survey.

3. Some DOE field site representatives perceived EPA's estimate of the costs of the survey as low. In particular, the estimate of 4 ½ hours of time for retrieving and reporting of data was seen as an underestimate. DOE field site representatives pointed to the request for respondents to tabulate personnel positions, the time they allocate to institutional control management and their salary levels as taking longer to complete than the 4 ½ hour suggested by EPA. Easily retrievable personnel information on electronic storage media is not likely to be the type of information that could answer the questions being asked on an individual employee basis. The subject personnel may have to be interviewed, either in person or by telephone, or via electronic mail. Some respondents will need to be provided with the details and definitions of exactly what is being requested of them in order to estimate their time allocations. The Final Information Request should recognize these potential data collection difficulties and others and should adjust the time and cost estimates accordingly.

Specific Comments

(These comments refer to the draft Survey materials that accompany the Proposed ICR)

1. Survey Item 2.2

- ▶ The list of possible answers should not specifically identify "DOE," but rather simply refer to "Federal Facilities." Some state respondents will likely have more Department of Defense long-term stewardship sites than DOE sites.
- ▶ Since the list of answers includes two categories (*response programs* and *land owners*), the following should be added as possible additional answers: "*State, local and tribal governments*" and "*Brownfields*" [unless the understanding of most respondents will be that "*Voluntary Cleanup Program Sites*" is equivalent with Brownfield sites].

2. Add new Survey item 2.6

- ▶ Suggest adding a new Item 2.6: “Does the respondent track ICs by categories such as “landowner,” “responsible party,” or by the legal description of the land?”

3. Survey Item 3.4

- ▶ For answers under “*Site Characteristics*,” suggest adding “*Changes in Land Ownership*”
- ▶ For answers under “*IC Characteristics*,” suggest deleting “*use restriction*” as an example of “*Specific Type*.” Since many see all Institutional Controls as use restrictions, using the term “*use restriction*” as an example of an Institutional Control may be confusing by seeming to suggest that some Institutional Controls are not use restrictions.

4. Survey Item 3.4

Asking respondents the following additional questions:

- ▶ How do they initially receive information on the existence of ICs?
- ▶ How do they receive information to populate their database on those ICs?
- ▶ How do they receive information to update their databases on the ICs?
- ▶ Is any QA/QC done of their information? If so, how much does that cost?

5. Reorder the questions in Items 6.2, 6.3 and 6.4.

- ▶ Item 6.2 asks respondents to indicate if and how their IC tracking costs are offset. Items 6.3 and 6.4 ask respondents about their IC tracking costs. Suggest: (a) reversing the order of these questions to first ask respondents about personnel and capital costs and then ask them the question about offsets, and (b) amend the table on offsets to include asking respondents to estimate the percentage contribution of the offsets to the total costs of IC tracking. This could be valuable information when trying to determine who bears the costs of ICs.