

90% Remedial Design

Volume II – Part VII

Institutional Controls Implementation and
Assurance Plan Outline

Institutional Controls Implementation and Assurance Plan Outline

This appendix provides an outline of the Institutional Controls Implementation and Assurance Plan (ICIAP) for the Lower Duwamish Waterway upper reach remedial design. The Final (100%) Remedial Design will include a revised outline of the ICIAP to address U.S. Environmental Protection Agency (EPA) comments on the 90% outline. The Implementing Entity will draft and finalize the ICIAP after construction of the upper reach sediment remedy is complete. The ICIAP will be amended to include institutional controls (ICs) required by the middle and lower reach sediment remedies after construction of those respective remedies is complete. This ICIAP does not cover the seafood consumption-related ICs because those have been developed separately for EPA (Lee et al. 2019); the seafood consumption IC program was started in 2017 (King County 2020).

1. Introduction

The ICIAP is a planning document required by AOC4. The purpose of the ICIAP is to identify and select appropriate ICs to help reduce the possibility of uncontrolled future activities that could damage caps. EPA generally categorizes ICs as Proprietary Controls, Governmental Controls, Enforcement and Permit Tools with IC Components, and Informational Devices. The Lower Duwamish Waterway (LDW) *Record of Decision* selected a remedy that minimizes the use of ICs to the extent practicable.

During construction of the upper reach, EPA and the Implementing Entity will work together to select the appropriate elements (i.e., Section 3a categories) of the ICIAP to implement. Once upper reach construction is complete, the ICIAP for the upper reach will then be finalized.

The process for implementing reach-specific ICs begins after the construction phase for each reach is complete and the required elements of the project have been built, surveyed, and documented in record drawings. The record drawings are necessary documentation required by government agencies (e.g., U.S. Coast Guard and King County Recorder's Office) for review of IC requests. When implementing ICs through government agencies, processes and timelines must be followed for each respective agency.

The ICIAP will be revised to include reach-specific ICs as construction of each reach is completed. The LDW-wide ICIAP will be finalized after construction of all reaches is complete.

2. Site Details

- a. Site Description
- b. Brief Site History
- c. Summary of Sediment Remedy
- d. Property Information and Owner Contacts

3. Identification and Evaluation of Upper Reach ICs

- a. Types of ICs Potentially Applicable to the Upper Reach Remedy

- i. Proprietary Controls
 - ii. Governmental Controls
 - iii. Enforcement and Permit Tools with IC Components
 - iv. Informational Devices
 - b. Summary of Affected Areas and IC Objectives
 - c. Evaluation and Selection of ICs
- 4. Summary of Upper Reach ICs
 - a. Upper Reach Area 14/15/16 Cap – will include relevant ICs selected previously
 - b. Upper Reach Area 27 Cap – will include relevant ICs selected previously
- 5. IC Maintenance
 - a. IC Assurance Monitoring
 - i. Responsible Parties
 - ii. Frequency of Inspections and IC Monitoring
 - iii. Monitoring Activities
 - iv. Events and Activities to be Monitored
 - b. Reporting
 - i. Procedures
 - ii. Frequency
 - iii. Events and Activities to be Reported
 - iv. Entity Responsible for Reporting
 - v. Regulatory Entity Contacts
- 6. Enforcement
 - a. Enforcement Entities and Procedure
 - i. Triggering Events
 - ii. Responsible Entity
 - iii. Procedure and Time Frame
 - iv. Enforcing Entity and Notification Procedures
 - v. Legal Authority for Enforcing
 - vi. Contingency Plans
 - vii. Financial Assurances
- 7. IC Modification and Termination Elements
 - a. Modification Process
 - i. Conditions for Modification
 - ii. Responsible Parties
 - b. Termination Process
 - i. Conditions for Termination
 - ii. Responsible Parties
- 8. Attachments

References

EPA (U.S. Environmental Protection Agency), 2012. *Institutional Controls: A Guide to Planning, Implementing, Maintaining and Enforcing Institutional Controls at Contaminated Sites*. EPA 540-R-09-001. OSWER 9355.0-89. December 2012.

King County, 2020. *About the Fun to Catch, Toxic to Eat Program*. King County. Last modified February 28, 2020; accessed January 30, 2023. Available at: <https://kingcounty.gov/depts/health/environmental-health/healthy-communities/duwamish-fishing/about-us.aspx>.

Lee S., Tippens K., and Ho K., 2019. *US EPA's Institutional Control Implementation and Assurance Plan (ICIAP) for Seafood Consumption at the Lower Duwamish Waterway (LDW) Superfund Site*. Final Report. Public Health – Seattle & King County. Prepared for U.S. Environmental Protection Agency Region 10. August 2019.