## Section B.3: Institutional Controls (ICs) Not Immediately Resulting in Conditional Site Rehabilitation Completion Orders (CSRCOs)

Some sites may be required by private contract, cleanup agreement, permit (i.e., RCRA permits), or consent order to implement an IC prior to beginning or completing the cleanup work. In some circumstances, there are also sound environmental reasons for the agency to encourage the implementation of an IC prior to completing the remediation. For example, an IC not immediately resulting in a CSRCO may be appropriate when restrictions related to areas of defined soil contamination are appropriate, the parties anticipate that remediation will take years to complete, and FDEP agrees that active remediation will be conducted only on the groundwater contamination. Under such circumstances, for example, an IC not immediately resulting in a CSRCO might require restrictions on use of or the maintenance of an impervious surface (i.e., cap) to prevent exposure to contaminated soils and restrictions on use of groundwater while the groundwater continues to be remediated, either actively or using natural attenuation. When an IC is implemented under these conditions, remediation of all affected media may not be complete; therefore, FDEP will not issue a CSRCO immediately after the recording of the IC. The procedures for evaluating this IC will be the same as for any other IC. However, additional language should be included in the document to address the contamination that is under remediation, and the IC will specifically say that a CSRCO will not be issued immediately upon establishment of the IC. It is possible, however, that a CSRCO could be issued in the future based upon this IC and the completion of cleanup at a future date. Please be sure to advise the OGC attorney reviewing the IC if it will not immediately result in issuance of a CSRCO.

*An IC not immediately resulting in a CSRCO may be appropriate when long term groundwater remediation is projected. This IC may make redevelopment possible. property during cleanup.*

When the active remediation has been completed, the IC should be re-evaluated. At that time, the FDEP must evaluate what restrictions, if any, are required on the property in order to issue a Site Rehabilitation Completion Order (SRCO), conditional or not. If an IC is still necessary but the existing IC should be amended, then the complete IC review procedure should be conducted (including new or updated title work), and the IC text should be amended to remove restrictions that are no longer appropriate and impose new restrictions that are appropriate. It is the real property owner’s option to either record an amendment to the existing recorded IC or to simply record an entirely new IC to supersede the existing one. See sections below for more information on amending or replacing recorded ICs. Upon implementation of this new IC (or an amendment to an existing IC), the issuance of a CSRCO may be appropriate. If the IC is no longer appropriate because the requirements for closure under Risk Management Option I (RMO I) have been met, then the IC should be terminated (the termination document must be recorded) and a SRCO can be issued.