

US EPA ARCHIVE DOCUMENT

GLOSSARY OF TERMS

Administrative Orders on Consent (AOC) - A legal agreement signed by EPA and the potentially responsible parties (PRPs) through which the PRP agrees to pay for or take the required corrective or cleanup actions, or refrain from an activity. It describes the actions to be taken, may be subject to a comment period, applies to civil actions, and can be enforced in court.

Advisories - Warnings, usually issued by public health agencies, either at the federal, state or local level, that provide notice to potential users of land, surface water, or ground water of some existing or impending risk associated with their use.

Appurtenant - A traditional property law term used to describe an easement that is created to benefit an adjacent parcel of land (and it is held by the owner of that land). For example, an easement allowing the owner of one parcel the right to cross an adjoining parcel would be appurtenant. (See also "In Gross")

Chain of Title - A history of conveyances and encumbrances affecting a title from the time that the original patent was granted, or as far back as records are available.

Common Law - The body of law developed primarily from judicial decisions based on custom and precedent, unwritten in statute or code, and constituting the basis of the legal system in all of the U.S. except Louisiana.

Condemnation of Property - When a local government, exercising eminent domain, condemns a property in order to take over title.

Consent Decree (CD) - A legal document, approved by a judge, that formalizes an agreement reached between EPA and PRPs through which PRPs will conduct all or part of a cleanup action at a Superfund site, cease or correct actions or processes that are polluting the environment, or otherwise comply with EPA initiated regulatory enforcement action. The consent decree describes the actions PRPs will take and is subject to a public comment period.

Conservation Easements - Statutes adopted by some states that establish easements to conserve and protect property and natural resources.

Conveyance - The transfer of title to property or a right of that property (i.e. easement) from one person to another.

Cooperative Agreement - An assistance agreement whereby EPA transfers money, property, services or anything else of value to a state, university, or non-profit or not-for-profit organization for the accomplishment of authorized activities or tasks.

Covenants - A promise by one landowner to another made in connection with a conveyance of property. Generally, a covenant is a promise by the holder of a possessory interest in property to use or refrain from using the property in a certain manner. Covenants are similar to easements but have been traditionally subject to somewhat different formal requirements.

Deed - A signed and usually sealed instrument containing some legal transfer, bargain, or contract.

Deed Notice - Commonly refers to a non-enforceable, purely informational document filed in public land records that alerts anyone searching the records to important information about the property.

Deed Restriction - Not a traditional property law term, but rather is used in the NCP as a shorthand way to refer to types of institutional controls.

Easements - A property right conveyed by a landowner to another party which gives the second party rights with regard to the first party's land. An "affirmative" easement allows the holder to enter upon or use another's property for a particular purpose. A "negative" easement imposes limits on how the landowner can use his or her own property.

Enforcement Tools - Tools, such as administrative orders or consent decrees, available to EPA under CERCLA and RCRA that can be used to restrict the use of land. Enforcement authority can be used to either (1) prohibit a party from using land in certain ways or from carrying out certain activities at a specified property, or (2) require a settling party to put in place some other form of control, such as a proprietary control.

Equitable Servitude - A real estate interest, similar to a covenant, that arose when courts of equity enforced agreements that did not meet all of the formal requirements for a covenant.

Government Controls - Controls using the regulatory authority of a governmental entity to impose restrictions on citizens or sites under its jurisdiction. Generally, EPA must turn to state or local governments to establish controls of this type.

In Gross - A traditional property law term used to describe easements that provide a benefit not related to any property owned by the holder of the easement. Easements used under CERCLA and RCRA will generally be “in gross” because the restrictions are generally not for the benefit of any particular neighboring parcel owned by the holder of the easement.

Informational Devices - Informational tools that provide information or notification that residual or capped contamination may remain on site. Common examples include state registries of contaminated properties, deed notices, and advisories.

Institutional Controls - Non-engineering measures intended to affect human activities in such a way as to prevent or reduce exposure to hazardous substances. They are almost always used in conjunction with, or as a supplement to, other measures such as waste treatment or containment. There are four categories of institutional controls: governmental controls; proprietary controls; enforcement tools; and informational devices.

Local Permits - Special permits outlining specific requirements before an activity can be authorized.

Memorandum of Understanding - A document which outlines an agreement in principle between its signatories.

Proprietary Controls - Tools based on private property law used to restrict or affect the use of property.

Reversionary Interest - A real estate interest created when a landowner deeds property to another, but the deed specifies that the property will revert to the original owner under specified conditions.

“run with the land” - An expression indicating a right or restriction that affects all current and future owners of a property.

State Use Restrictions - Statutes enacted by some states providing authority to establish use restrictions specifically for contaminated property.

State Registries of Hazardous Waste Sites - Registries established by state legislatures that contain information about properties. Types of registries include a list of hazardous waste sites in the state; annual reports submitted to the legislature summarizing the status of each site on the registry; and notice with the deed for sites on the registry that the site is contaminated.

Superfund State Contract (SSC) - An agreement between EPA and the state before remedial action begins (at Superfund sites where EPA is leading the response activities) that documents the state’s assurances under the law and outlines the roles and responsibilities of both parties.

Tailored Ordinances - Ordinances put in place by local governments with broad land use authority to control access to or the use of certain areas. For example, ordinances that require fences or buffers around or that ban fishing or swimming in contaminated areas.

Technical Assistance Grant - A EPA grant awarded to eligible community groups for the purpose of hiring an independent technical advisor, enabling community members to participate more effectively in the decision-making process at Superfund sites.

Unilateral Administrative Order (UAO) - A legal document signed by EPA directing the PRPs to take corrective action or refrain from an activity. It describes the violations and actions to be taken, and can be enforced in court.

Zoning Restriction - Zoning authority exercised by local governments to specify land use for certain areas. For example, a local government could prohibit residential development in an area of contamination or limit gardening in certain areas.

