



# Conditional Closures, Long-Term Stewardship and AAI Under ASTM 1527-13

(Session 000 - Long Term Stewardship Strategies for Residual Contamination After Closure)

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29<sup>th</sup> Annual Environmental Permitting Summer School  
Orlando, FL - July 8, 2015

## **CONDITIONAL CLOSURE AND REAL ESTATE TRANSACTIONS**

- ▶ Summary of Panel Discussion
  - ▶ Ron, Steve, Todd
  - ▶ Property Owner's Perspective
- ▶ Phase I ESA Standard Practice in RE Transactions (Sale, Refi, Repo)
- ▶ ASTM Standard 1527-13 Meets EPA's AAI (Eff. 10/6/15)
- ▶ Kinky Stuff in ASTM 1527-13 to Consider
  - ▶ Train "RECs" – HREC, CREC
  - ▶ Records Review Enhancements
  - ▶ Vapor Migration – (p)VEC

## HISTORICAL RECOGNIZED ENVIRONMENTAL CONDITION (HREC)

“... a past release of any hazardous substances or petroleum products that has occurred in connection with the property and has been addressed to the satisfaction of the applicable regulatory authority or meeting unrestricted use criteria established by a regulatory authority, without subjecting the property to any required controls...” (i.e., unrestricted land use).

*The EP must determine whether the past release is a REC at the time the Phase I ESA is conducted (i.e., regulatory criteria used to establish the original NFA/SRCO have not changed to the extent the site is no longer a HREC). If changed conditions, may be characterized as a REC in conclusions. Necessitates file review.*

## **CONTROLLED RECOGNIZED ENVIRONMENTAL CONDITION (CREC)**

A REC resulting from a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls (i.e., ICs or ECs resulting in LTS/CO). Listed as a REC in conclusions section of Phase I ESA.

*A condition identified as a CREC does not imply that the EP has evaluated or confirmed the adequacy, implementation, or continued effectiveness of the required control that has been, or is intended to be, implemented.*

## **RECORDS REVIEW (STANDARD/REGULATORY AGENCY FILES)**

- ▶ Property/Surrounding Properties Identified From Standard Record Sources (Federal, State, Tribal) Based on Appropriate Search Distance.
- ▶ Includes Federal, State and Tribal IC/EC Registries
- ▶ If Property/Surrounding Properties Identified in Records Review, Pertinent Regulatory Files and/or Records Should be Reviewed or Justification Provided by EP if Not Reviewed.
- ▶ HRECs Considered Inactive. Not Searchable Via CLM. Require Direct Oculus Search With Facility ID.
- ▶ CRECs Considered Inactive. Search via ICR Web Viewer and Link to Documents.

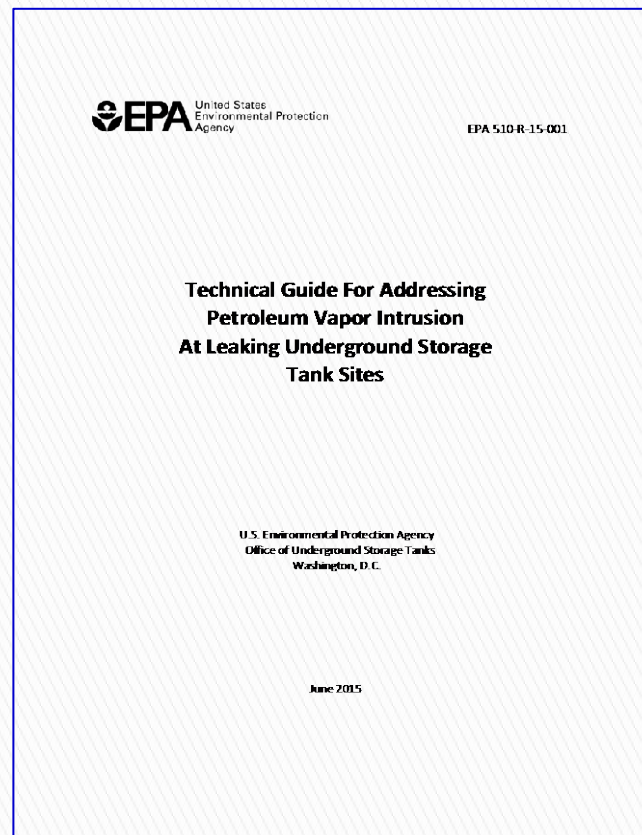
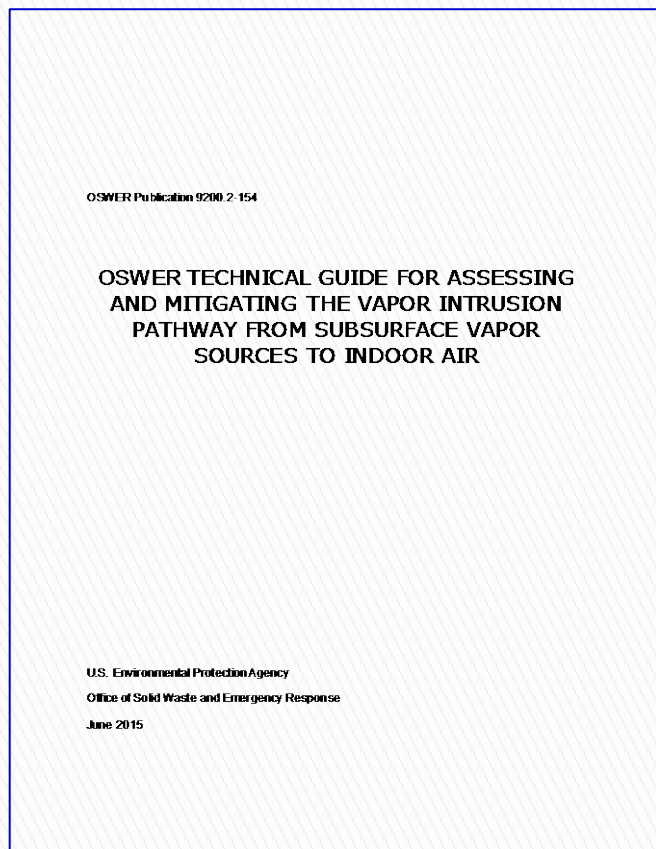
## **WHY CONDUCT A CREC REGULATORY FILE REVIEW?**

- ▶ Phase I ESA User and/or Potential Reliance Parties May/Will Require Further Evaluation.
- ▶ What ICs/ECs Have Been Established?
- ▶ What Does the Engineering Control Maintenance Plan Require In the Way of LTS/COs?
- ▶ What Is the Expected Cost for Maintaining Continuing Obligations?
- ▶ Determine If the Previous Consultant Has Been Technically Proficient In Investigating the Site and That Proper ICs/ECs Established.
- ▶ Are ECs Adequate, Being Maintained and Continuing to be Effective?
- ▶ Are There Potential Re-Openers (e.g., Vapor Migration)?

# VAPOR MIGRATION

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## Release of Two EPA VI Guidance Documents in June 2015



## VAPOR MIGRATION (VEC-VAPOR ENCROACHMENT CONDITION)

- ▶ EPA: “The scope of the AAI Rule and ASTM E1527–05 standard always included the requirement to identify all indications of releases and threatened releases of hazardous substances or ‘recognized environmental conditions (RECs)’, **including indications of vapor migration or vapor releases.**” (79 FR 60088, October 6, 2014).
- ▶ Florida Has No VI Guidance Although Indications Are That State Will Adopt EPA Guidance.
- ▶ Increased Emphasis on Vapor Migration Pathway Will Drive Additional Scrutiny by EP and the FDEP.
- ▶ Some Current GCTLs Allowing Closure as a HREC/CREC May Be Re-Opened With New EPA Risk Guidance/Revisions (e.g., TCE Non-Cancer Inhalation Tox Values [2  $\mu\text{g}/\text{m}^3$  from 10]).



## INSTITUTIONAL CONTROLS REGISTRY (ICR)

- ▶ Sites Conditionally Closed Listed on Institutional Controls Registry.
- ▶ <http://www.dep.state.fl.us/waste/categories/brownfields/pages/ICR.htm> (Link to ICPG Guidance Document).
- ▶ ICs—Legal or Administrative Restrictions on Use of Site or Facility—Typically Restrictive Covenants.
- ▶ ECs—Engineering Controls—Physical Mechanisms Preventing Access to Residual Contamination.
- ▶ Engineering Control Maintenance Plan—How the EC will be Maintained and What Constitutes Failure of the EC.
- ▶ Where an EC Required, IC Should be Recorded. Runs With the Land. Becomes Continuing Obligation to the Property Owner (LTS).

# INSTITUTIONAL CONTROLS REGISTRY



### Programs

- » [Waste Home](#)
- » [Permitting and Compliance Assistance](#)
- » [Petroleum Restoration](#)
- » [Waste Cleanup](#)

### Information

- » [Division & Program Contacts](#)
- » [Data Reports](#)
- » [DEP Public Notices](#)
- » [Forms](#)
- » [News](#)
- » [Publications and Reports](#)
- » [Rules](#)

### Navigation

- » [Agency Site Map](#)
- » [Division Site Map](#)

### Institutional Controls Registry



## Florida Department of Environmental Protection Institutional Controls Contacts List

### PROGRAM AREAS

#### BROWNFIELDS

*Kim Walker, Environmental Administrator*  
Bureau of Waste Cleanup  
850-245-8934

#### NPL (SUPERFUND)/STATE LEAD

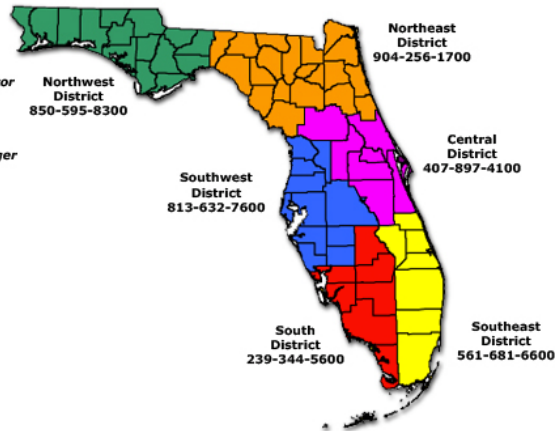
*Nancy Murchison, Environmental Manager*  
Bureau of Waste Cleanup  
850-245-8990  
*Kelsey Helton, PG II*  
Bureau of Waste Cleanup  
850-245-8969

#### RCRA

*Tim Bahr, Environmental Administrator*  
Bureau of Solid & Hazardous Waste  
850-245-8790

#### PETROLEUM

*John Wright, Professional Engineer III*  
Bureau of Petroleum Storage Systems  
850-245-8888



(Click image for PDF format)

**"ICPG" - Institutional Controls Procedures Guidance (November 2013)**  
[Word](#) | [PDF](#)

### Related Links

- » [ICR Data Sheet](#)
- » [ICR Engineering Controls](#)
- » [ICR Data Dictionary](#)

### Highlights



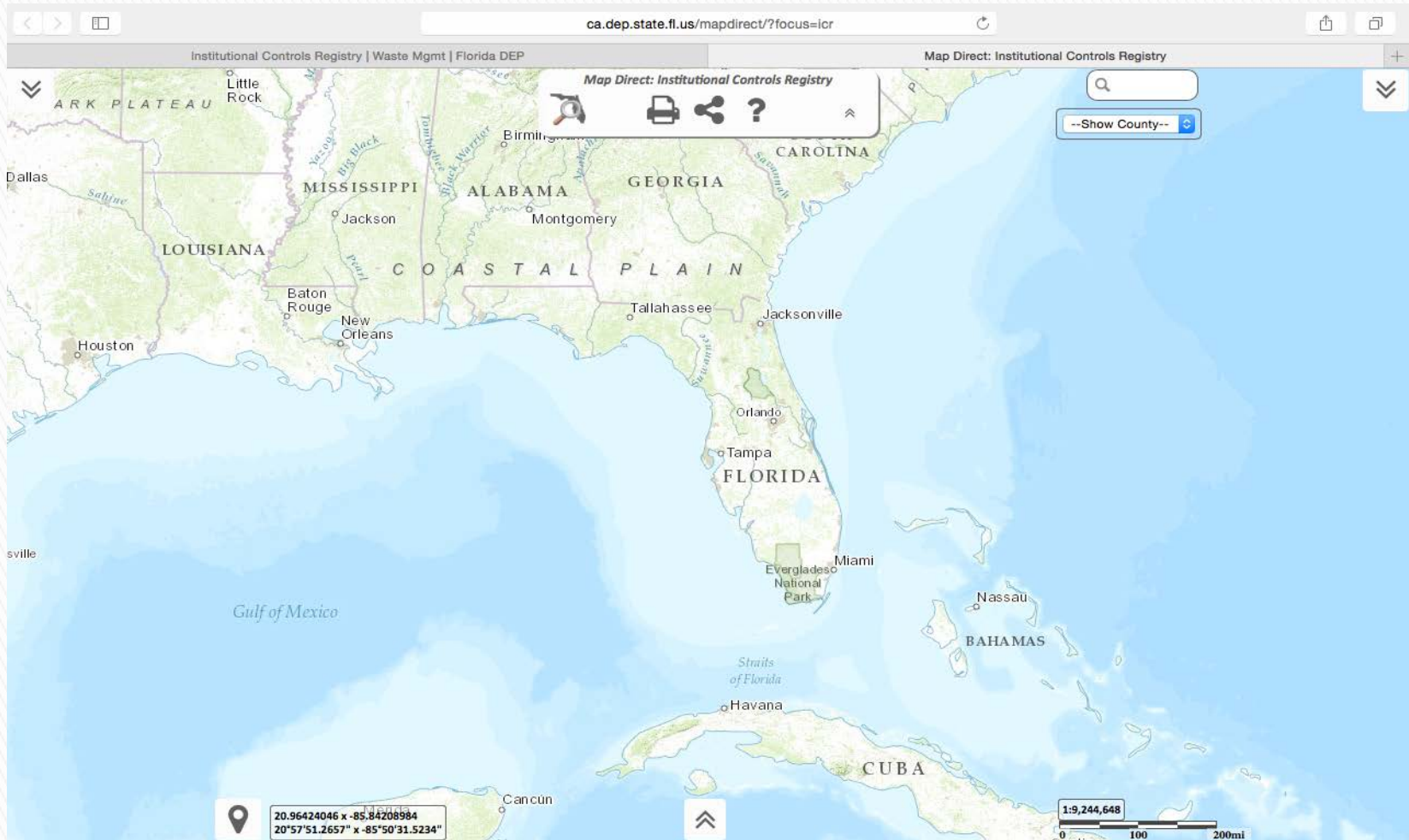
- » [Brownfields Main Page](#)
- » [Annual Reports](#)
- » [Area Designation Process](#)
- » [Brochures and Presentations](#)
- » [Brownfields GeoViewer](#)
- » [Brownfields Redevelopment Act](#)
- » [Conferences](#)
- » [Contacts](#)
- » [Delegated Local Government Programs](#)
- » [EPA MOA](#)
- » [Incentives](#)
- » [Links](#)
- » [List of Brownfields Sites and Areas \(BSRAs and Resolutions\)](#)
- » [Model BSRA](#)
- » [Monthly Program Updates](#)
- » [Program Guidance Manual](#)
- » [Rules and Related Laws](#)
- » [State Brownfield Partners](#)
- » [Target Brownfields Assessment](#)

### Related Links

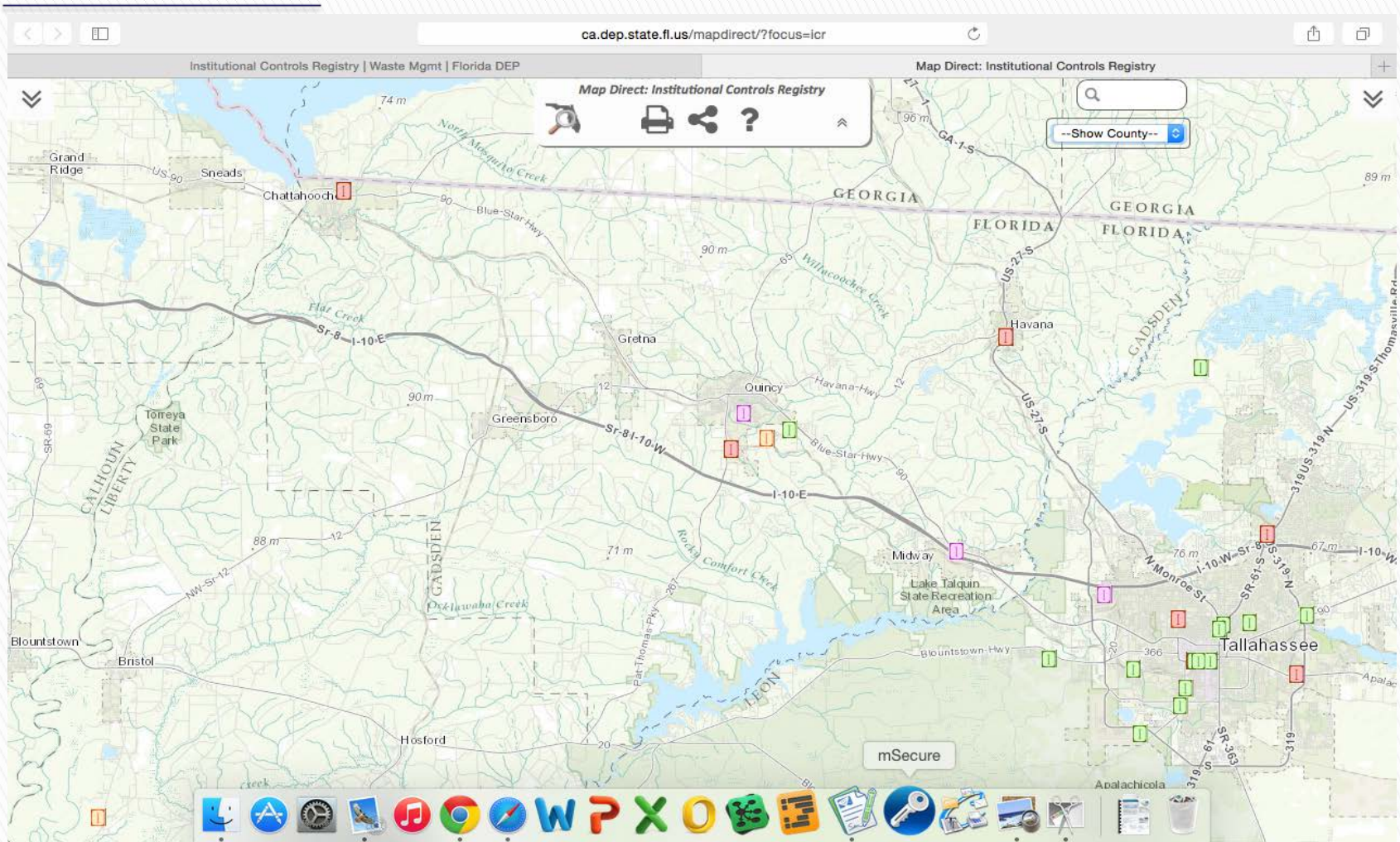
- » [Waste Cleanup](#)
- » [Drycleaning Solvent Cleanup](#)
- » [EPA Brownfields Pilots and Communities](#)
- » [Federal Partners](#)
- » [Florida Resource Directory](#)
- » [Florida Statutes](#)
- » [Institutional Controls Registry](#)
- » [Petroleum Storage Systems](#)
- » [Pollution Prevention](#)
- » [State Brownfield Partners](#)
- » [Voluntary Cleanup Tax Credit](#)



# INSTITUTIONAL CONTROLS WEB VIEWER



# INSTITUTIONAL CONTROLS WEB VIEWER-COUNTY LEVEL



# INSTITUTIONAL CONTROLS WEB VIEWER-SITE SPECIFIC

The screenshot displays the Institutional Controls Registry web viewer interface. The main map shows Quincy, Florida, with several Institutional Control (IC) sites marked by colored icons: a red square, a pink square, an orange square, a green square, and a purple square. The information panel on the right provides the following details for 'THE PRINTING HOUSE':

- ICR# 671**
- Site# COM\_314467** in COMET Database
- 1066 STRONG STREET, QUINCY, FL, 32351, GADSDEN County**
- Township 02N Range 03W Section 17**
- Parcel# 3-17-2N-3W-0000-00440-0000**
- Book 776, Page 1227-1251**

**Controls Information Table:**

Controls Information	
IC Type	LAND USE RESTRICTION
EC Type	NONE
Media	SOIL
Contamination	METAL - ARSENIC
Amended Date	
Removed Date	

**Contamination Description:**  
 The contamination consist of Total Recoverable Petroleum Hydrocarbons, 1,2,4-Trimethylbenzene, and 1,3,5-Trimethylbenzene. The Arsenic noted on the site appears to be attributed to anthropogenic sources from agriculture use and not related to site op

**Coordinates:**  
 Lat: 30° 34' 3.7"  
 Lon: 84° 33' 8.46"

At the bottom left of the map, a location pin indicates coordinates: 30.55808144 x -84.55055049 and 30°33'29.0932" x -84°33'1.9818".

# INSTITUTIONAL CONTROLS WEB VIEWER-RECORDS SEARCH

approd.dep.state.fl.us/www\_RCRA/Reports/clm\_results\_docs.asp?facid=COM\_3

Institutional Controls Registry | Waste Mgmt | Florida DEP      Map Direct: Institutional Controls Registry      Cleanup Facility Documents Search Results

Florida Department of Environmental Protection

Florida Department of Environmental Protection  
**Cleanup Facility Electronic Documents Listing**

**Cleanup Facility Electronic Documents available online  
for COMET Facility ID: COM\_COM\_314467;**

**This Facility ID was not found in the Oculus Database, so no documents were retrieved. Please perform a [Cleanup Facility Search](#) to select a valid Facility ID.**

```
SELECT b.facility_name, b.program_name, b.program FROM depoc.roh_con_facility b WHERE b.FACILITY_ID like 'COM_COM_314467'
```

# INSTITUTIONAL CONTROLS WEB VIEWER-OCULUS REPORTS

[<](#) [>](#) [□](#)

[↑](#) [□](#)

[approd.dep.state.fl.us/www\\_RCRA/Reports/clm\\_results\\_docs.asp?facid=COM\\_3](http://approd.dep.state.fl.us/www_RCRA/Reports/clm_results_docs.asp?facid=COM_3)

Institutional Controls Registry | Waste Mgmt | Florida DEP
 Map Direct: Institutional Controls Registry
Cleanup Facility Documents Search Results

Florida Department of Environmental Protection

Florida Department of Environmental Protection  
**Cleanup Facility Electronic Documents Listing**

**Cleanup Facility Electronic Documents available online**  
**for COMET Facility ID: [COM\\_314467](#); [THE PRINTING HOUSE](#)**

Access to these documents requires an Oculus logon.  
 For public access see the logon form for the "**PUBLIC OCULUS LOGIN**" button and also instructions for use.

Click on the red arrow below to open a specific document, or on the facility name above for the full document list in Oculus.  
 Once accessed in Oculus, you may refine or expand your document **search** options there.

The documents listed below are those available in electronic format. For a complete document review you may contact the District office for the facility of interest - [District Office Link](#).

**Cleanup/Remediation Documents:**

Document Date	Document Type and Subject	View
2013.07.23	SITE ASSESSMENT RELATED PE CERT	▶
2013.07.23	COMPLETION RELATED CONDITIONAL SRCO WITH EXECUTED RESTRICTIVE COVENANT	▶
2013.06.24	REQUEST FOR ADDITIONAL INFORMATION DRAFT SRCO	▶
2013.06.24	REQUEST FOR ADDITIONAL INFORMATION DRAFT SRCO	▶
2013.06.19	REQUEST FOR ADDITIONAL INFORMATION ATTORNEY'S EMAIL RESPONSE FOR UPDATE	▶
2013.03.15	MONITORING PLANS AND REPORTS RELATED EMAIL FROM J CHISLOM - PRELIMINARY COMMENTS	▶
2013.03.15	MONITORING PLANS AND REPORTS RELATED DEPT COMMENTS EMAIL	▶
2013.03.14	MONITORING PLANS AND REPORTS RELATED DEPT EMAIL -DRAFT RC COMMENTS	▶
2013.03.07	MONITORING PLANS AND REPORTS RELATED EMAILS FROM REP & DEPT	▶
2013.02.27	MONITORING PLANS AND REPORTS RELATED EMAIL - REQUEST FOR CONDITIONAL CLOSURE	▶
2013.02.27	COMPLETION RELATED ORIGINAL PROOF OF PUBLICATION	▶
2013.02.26	MONITORING PLANS AND REPORTS RELATED EMAIL - PROOF OF PUBLICATION	▶
2013.02.22	COMPLETION RELATED PROPOSAL FOR NFA	▶
2013.02.22	COMPLETION RELATED ENGINEERING CONTROLS RPT - TRANSMITTAL LTR	▶
2013.02.20	COMPLETION RELATED NOTICE OF INTENT PUBLICATION AND NOTICE TO MORTGAGEE	▶
2013.01.11	COMPLETION RELATED NOTICE OF INTENT TO ENTER INTO A RC	▶



# INSTITUTIONAL CONTROLS WEB VIEWER-LAYERS

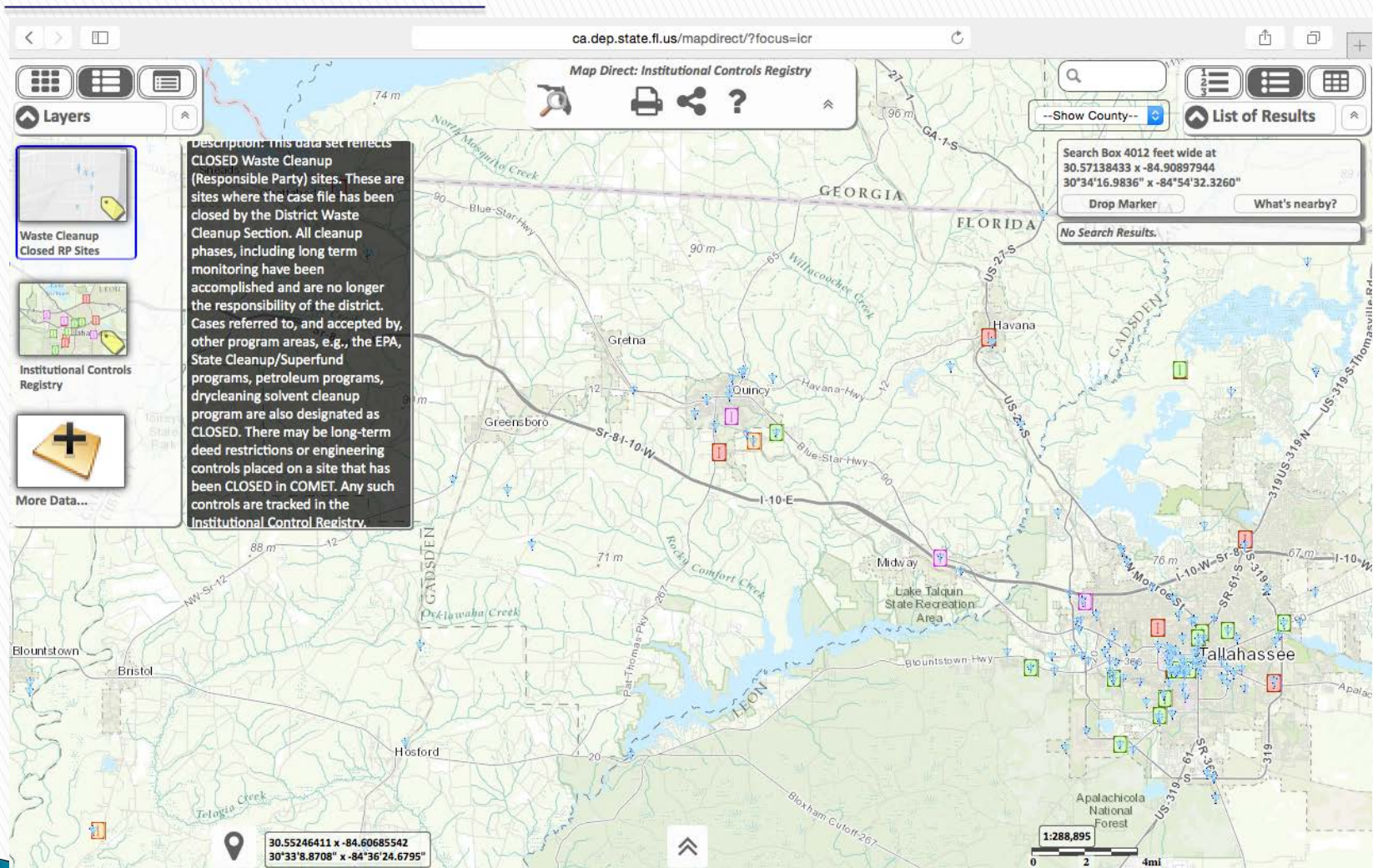
The screenshot displays the Institutional Controls Registry web viewer interface. The browser address bar shows the URL: [ca.dep.state.fl.us/mapdirect/?focus=icr](http://ca.dep.state.fl.us/mapdirect/?focus=icr). The page title is "Institutional Controls Registry | Waste Mgmt | Florida DEP". The main content area is titled "Add More Data to the Map" and is divided into three sections:

- Trails:** This section contains six layers, each with a "NEW!" badge:
  - Existing Trails
  - Priority Ecological Greenways Network 2013
  - Priority Trail Opportunities
  - Paddling Trail Opportunities
  - Land Trail Opportunities
  - 2012 Draft Multi-use Opportunity Corridors
- Waste Cleanup:** This section contains 14 layers:
  - Brownfield Sites
  - Brownfield Areas
  - EPA Brownfield Pilots
  - Front Porch Communities
  - Florida Enterprise Zones
  - Drycleaning Program
  - DEP Cleanup Sites
  - Site Investigation
  - HAZWASTE
  - State Funded Cleanup Sites
  - Waste Cleanup Open RP Sites
  - Waste Cleanup Closed RP Sites
  - Waste Cleanup Inactive RP Sites
- Wastewater and Groundwater:** This section contains 14 layers:
  - Groundwater Contamination
  - SWAPP Areas
  - Underground Injection Control Monitoring
  - UIC Class V Non-ASR Wells
  - UIC Class V ASR Wells
  - UIC Class I Wells
  - Wastewater Sites from WAFR IMS
  - Wastewater Facilities from WAFR IMS
  - Residual Application Sites from WAFR IMS
  - NPDES Stormwater
  - Water Resource
  - Phosphorus Restrictive
  - DOH Beach Sampling
  - DOH Beach Sampling

The interface includes a search bar, a scale bar (1:288,895), and a map background showing geographical features and roads.



# INSTITUTIONAL CONTROLS WEB VIEWER-CLOSED RP SITES



# INSTITUTIONAL CONTROLS WEB VIEWER-CLOSED RP SITES

ca.dep.state.fl.us/mapdirect/?focus=icr

Institutional Controls Registry | Waste Mgmt | Florida DEP

Map Direct: Institutional Controls Registry

Map Direct: Institutional Controls Registry

Layers

Waste Cleanup Closed RP Sites

Institutional Controls Registry

More Data...

Search Box 4012 feet wide at 30.56754146 x -84.55192378 30°34'3.1493" x -84°33'6.9256"

Drop Marker

What's nearby?

Zoom To All 4 selected features

Clear Results

Printable View

Waste Cleanup CLOSED Responsible Party Sites

THE PRINTING HOUSE

Site Id# 314467  
Project Id# 334808  
1066 STRONG STREET  
QUINCY 32351  
Gadsden County  
Status: CLOSED.

Northwest Regulatory District

-No Comments-

ISDR: 08/22/2012

COMET Report

Documents

Institutional Controls Registry

THE PRINTING HOUSE

ICR# 671  
Site# COM\_314467 in COMET Database  
1066 STRONG STREET, QUINCY, FL, 32351,  
GADSDEN County

30.33194993 x -84.41940120  
30°19'55.0197" x -84°25'9.8443"

# IC WEB VIEWER-INACTIVE SITES-OCULUS DATA

Safari File Edit View History Bookmarks Window Help

depedms.dep.state.fl.us/Oculus/servlet/shell?command=hitlist&[catalog=5]&[entity]

Institutional Controls Registry | Waste Mgmt | Florida DEP Map Direct: Institutional Controls Registry Oculus 5.5

Search Actions Tools Help Logout Hello netuser

## Search Results

**Waste Cleanup**  
24 total

Result/Page Refresh Add to Favorites Export to Excel Send Search Results Printable Hitlist Showing Result(s) 1 to 10

Operations View Select Pages: 1 2 3 Next

	Preview	Profile	Facility-Site ID	Document Date	Received Date	Document Type	Document Subject	County	Facility Type	Contractor ID	File Size	Version
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	03-07-2013	03-07-2013	MONITORING PLANS AND REPORTS R	EMAILS FROM REP & DEPT	GADSDEN	RP CLEANUP		84 KB	1.0
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	06-24-2013	06-24-2013	REQUEST FOR ADDITIONAL INFORMA	DRAFT SRCO	GADSDEN	RP CLEANUP		107 KB	1.0
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	02-27-2013	02-27-2013	MONITORING PLANS AND REPORTS R	EMAIL - REQUEST FOR CONDITIONA	GADSDEN	RP CLEANUP		67 KB	1.0
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	03-15-2013	03-15-2013	MONITORING PLANS AND REPORTS R	EMAIL FROM J CHISLOM - PRELIMI	GADSDEN	RP CLEANUP		75 KB	1.0
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	03-15-2013	03-15-2013	MONITORING PLANS AND REPORTS R	DEPT COMMENTS EMAIL	GADSDEN	RP CLEANUP		72 KB	1.0
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	03-14-2013	03-14-2013	MONITORING PLANS AND REPORTS R	DEPT EMAIL -DRAFT RC COMMENTS	GADSDEN	RP CLEANUP		68 KB	1.0
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	07-23-2013	07-23-2013	COMPLETION RELATED	CONDITIONAL SRCO WITH EXECUTED	GADSDEN	RP CLEANUP		1557 KB	1.0
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	07-23-2013	07-23-2013	SITE ASSESSMENT RELATED	PE CERT	GADSDEN	RP CLEANUP		60 KB	1.0
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	08-21-2012	08-22-2012	SITE ASSESSMENT RELATED	PHASE II ASSESSMENT	GADSDEN	RP CLEANUP		12542 KB	
<input type="checkbox"/>		Cleanup_Remediation	COM_314467	10-18-2012	10-18-2012	SITE ASSESSMENT RELATED	REVIEW PHASE II ASSESSMENT	GADSDEN	RP CLEANUP		85 KB	1.0

## **CLOSING COMMENTS/QUESTIONS?**

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