# Section G.1: ICs AFTER ISSUANCE OF THE CSRCO

FDEP IC/EC Audit Program

To provide a level of assurance that the PRSRs are fulfilling their obligations under their ICs, the FDEP has established a program to independently verify both ICs and ECs. The goal of the audit program is to perform inspections at least every 5 years to ensure the ICs/ECs are in place and effective. As part of the recorded IC, the property owners who own conditionally closed sites grant site access to FDEP for inspection purposes. The results of the inspections are sent to FDEP site/project managers and, if necessary, the Office of General Counsel (OGC) for further action. [Attachment 31](https://floridadep.gov/waste/waste/documents/icpg-attachment-31) provides additional information on the FDEP IC/EC Audit Program (ICECAP).

Construction/Redevelopment Following Recording RC

If any construction or development will be taking place on a restricted property that may conflict with any Restrictive Covenant (RC) provision, please contact the appropriate FDEP district or Tallahassee program.

Dewatering/Stormwater Changes

If any dewatering will occur on the property, or if any stormwater features will be modified or constructed on the property, a Florida licensed professional engineer (P.E.) or professional geologist (P.G.) must certify that the proposed activities and/or the design of any stormwater features will not affect the conditions of the contaminants and/or contaminant plume relied upon for closure. Additional information on this certification can be found in [Section G.2](https://floridadep.gov/waste/district-business-support/documents/draft-icpg-g2-clean-version).

Removal of Some, or All, of the Restrictions on a Property

After recordation of the RC or issuance of a conditional site rehabilitation completion order (CSRCO), should the property owner desire to remove some, or all, of the restrictions, the appropriate FDEP district or Tallahassee program should review the technical file along with newly presented data to determine if such a request can be accommodated and whether additional remediation would be required. Following FDEP approval of such a request, the property owner should submit the appropriate draft amended RC, [Attachment 26A](https://floridadep.gov/waste/district-business-support/documents/icpg-attachment-26a), or a draft termination of RC, [Attachment 26B](https://floridadep.gov/waste/district-business-support/documents/icpg-attachment-26b), along with a copy of the original recorded RC, to the site/project manager for review following a similar process for OGC review. For more information regarding amending and terminating RCs, please see [Section F](https://floridadep.gov/waste/waste/documents/icpg-section-f).

If some restrictions remain applicable and the RC is amended, an amended CSRCO may need to be issued depending on site-specific conditions. The site manager/project manager should coordinate with OGC on amending the RC and/or CSRCO. If the RC is terminated and after the termination is recorded, the CSRCO will need to be rescinded and an SRCO issued. Similarly, when a contaminated site is closed under a CSRCO without recording an RC, if all restrictions and controls are no longer necessary the FDEP project/site manager rescinds the CSRCO and issues an SRCO (copying all entities that were originally copied on the CSRCO).

Subsequent Changes to a Property

Should FDEP obtain information that a property with an IC has been sub-divided (as is often the case with former military properties and larger tracts), the site/project manager should update the site file to indicate that the current controls now apply to multiple parcels and addresses.

In cases where the RC is recorded on a parcel and the parcel is later subdivided (whether it involves a 2-acre parcel divided into 2 one-acre parcels or 4 half-acre parcels or a 100 acre parcel divided into 100 1-acre parcels), the RC runs with the land so each of the subdivided parcels carries the restrictions. The property owner of the original parcel is normally required by the terms of the RC to ensure that the restrictions are referenced in any subsequent deed of conveyance, including the book and page number of the RC. Accordingly, if there is to be an amendment to the RC or even removal, each subdivided parcel to which that change applies will have its own new RC based on the technical changes proposed and approved by FDEP.

If the original restricted property will be subdivided such that all of the contamination will be on only one of the parcels, it may be possible to terminate the RC for the uncontaminated parcel. For example, a 10-acre parcel has a land use restriction in a recorded RC due to soil contamination. However, now the parcel is being divided in half, two 5-acre parcels. The original contamination is now exclusively on the western parcel; the restrictions and RC on the eastern parcel may be terminated. Updated sampling may be required, and this option may not always be available for properties with groundwater restrictions without updated sampling and re-evaluation of the plume extent.

Subsequent Release

Also, in accordance with the language in RCs and s. 376.30701(4), F.S., if, after recording the RC, a release or some other activity occurs at the Property that increases the concentration of contaminants of concern above the levels approved in the CSRCO, FDEP may require site rehabilitation to reduce concentrations of contamination to the levels allowed by the applicable FDEP rules. If a subsequent release occurs, the site/project manager should contact OGC for guidance. The existing RC may serve as the institutional control for the new release; however, the new release would need to be fully delineated, the existing controls would need to be appropriate for that release, and all other criteria of Rule 62-780, F.A.C. would need to be met.