

The following is example wording for activity and use limitations (AULs) for Section 5 of the environmental covenant (EC) and example standard reporting requirements for common AULs for Section 7 of the EC. Using this wording is not required but is provided here to help keep EC language uniform which can expedite DEP reviews.

Note on Nonresidential Use: Sites assessed using a nonresidential use scenario do not need to be restricted to nonresidential use. ECs need only AULs necessary to attain or maintain an Act 2 remediation standard.

Groundwater (GW) Use:

A: GW Use restriction – If pathways have not been evaluated:

Development or use of groundwater on the property is prohibited.

B: GW Use restriction – If pathways have been evaluated:

Development or use of groundwater on the property is prohibited unless adequate treatment is provided, and approval is acquired by the Department.

C: Nonuse Aquifer restriction

Review DCNR records as outlined in the final report (FR)/post-remediation care plan (PRCP)/remedial action completion report (RACR) to identify any newly installed wells located within the Nonuse Aquifer Determination (NUAD) area. Contact the water supply authority (currently [*appropriate entity*]) to verify that surrounding properties continue to receive potable water through the water supply authority. Communicate with the [*appropriate entity/entities*] to verify that changes to groundwater use in the NUAD area are not planned.

D: GW Treatment System

GW Treatment system must be maintained as described in the FR/PRCP/RACR.

E: GW Off-Site Use Monitoring

GW off-site use monitoring must be conducted as described in the PRCP.

Material Handling Restriction:

All earth disturbance, including excavated materials, shall be managed in accordance with the restrictions described in the FR/PRCP/RACR, applicable federal, state, and local laws, regulations and ordinances, as well as the then current Department Management of Fill Policy.

Cap/Cover Restrictions:

Existing surface cover (caps) consisting of buildings, and/or pavement (asphalt or concrete), gravel, or soil will be maintained as outlined in the PRCP (as shown on Exhibit X).

The cap materials will be periodically inspected and maintained in accordance with the Cap Inspection and Maintenance Plan provided in Exhibit X to ensure ongoing integrity and effectiveness. Should excavation occur in the area of the cap, the cap shall be returned to an equally protective state, using same or similar materials, immediately following the excavation project.

Vapor Intrusion (VI) Restriction:

A: Existing VI Mitigation – Passive

To maintain VI pathway elimination in existing buildings, current passive VI mitigation systems must remain installed and be maintained to provide adequate protection to indoor occupants. Any repairs or alterations must be reported to the Department within 30 days.

B: Existing VI Mitigation – Active

To maintain VI pathway elimination in existing buildings, current active VI mitigation systems must be operated and maintained as outlined in the PRCP (Exhibit X) to provide adequate protection to indoor occupants.

C: Future Construction – VI Mitigation

Any new construction shall incorporate a subfloor vapor barrier system engineered to prevent volatile chemical intrusion or a soil gas remediation/mitigation system that is effective in eliminating volatile chemical intrusion, unless otherwise approved by the Department prior to construction.

OR

Prior to construction of all future buildings to be used for human occupancy on the Property, one or a combination of the following VI controls will be implemented:

- i. An evaluation of potential VI sources at the time future buildings are planned/constructed to determine if a complete VI pathway exists.
- ii. Installation/utilization of appropriate, Department approved, VI mitigation measures. Such installation/utilization will include submission of a report to the Department confirming successful installation and operation of the VI system.

D: Future Construction – No basements

To avoid unacceptable risks associated with vapor intrusion to occupants at the Property, future buildings on the Property and modifications/additions to existing buildings shall be restricted to slab-on-grade construction.

The following are suggested standard reporting requirements for Section 7 (Compliance Reporting) of the EC for common AULs. The reporting requirements presented here are a starting point and may be more stringent based on Project Officer recommendations.

When there are multiple AULs in the EC, ensure that reporting requirements use the shortest reporting timeframe below or work with your DEP Project Officer to determine the most appropriate reporting timeframe for your site.

Every AUL should have the following language in the Compliance Reporting section as shown in the Model EC:

“After written request by the Department”

“In addition, within one month after any of the following events...”

Specific AULs requiring additional reporting:

Vapor intrusion mitigation:	“Examine annually and report findings to DEP at least every 3 years”
Active GW systems:	“Inspect annually and report status to DEP”
Fencing:	“Inspect routinely and report findings upon request”

AULs from PRCP requiring additional reporting:

Non-use Aquifer Determination:	“Confirmation of NUAD status will be reported to DEP annually”
GW Offsite monitoring:	“Report annually” (flexible up to triennial on a case-by-case basis)
Cap maintenance:	“Examine annually and report findings to DEP at least every 3 years”
POET Systems:	(reporting is flexible on a case-by-case basis)

Select the appropriate link for the Model EC needed:

[Model Environmental Covenant](#)

[PA Model Environmental Covenant For RCRA Sites](#)