

**ARCHIVE:** Archived because this document no longer provides current guidance and because revisions made to VAP rules in 2002 in OAC Chapter 3745-300 render this guidance unnecessary.

**TITLE:** Appropriate Recordation of a Ground Water Use Restriction on a Property's Deed

**DATE**

**EFFECTIVE:** July 3, 1997

**KEYWORDS:** deed, deed restriction, ground water use restriction

**RULES:** Rule citations relating to this issue include: Ohio Administrative Code (OAC) 3745-300-13(B)(3), OAC 3745-300-13(E)(13), OAC 3745-300-09 (D)(2)(c), OAC 3745-300-09(D)(3)(b)(iv)(B) and 3745-300-15(D)(2)

**QUESTION:** When a restriction on the extraction of ground water from a property is required in order to meet Voluntary Action Program (VAP) applicable standards, what is the appropriate restrictive language that should be recorded on the property's deed?

**ANSWER:** The appropriate language restricting the extraction of ground water located in, on or underlying the volunteer's property is as follows:

"Effective upon the issuance of a Covenant Not to Sue from the Ohio Environmental Protection Agency in accordance with Ohio Revised Code Chapter 3746, and for so long as such Covenant Not to Sue remains in full force and effect, neither the Declarant, its successors or assigns, nor any subsequent purchasers or transferees, shall extract the ground water located in, on or underlying the Property. Notwithstanding any of the foregoing provisions, ground water may be extracted from the Property upon, and subject to any conditions contained in the prior written consent of the Ohio Environmental Protection Agency and the written acknowledgment of the Ohio Environmental Protection Agency that such extraction will not result in the revocation of the Covenant Not to Sue."

**OHIO EPA**

**CONTACT:**

For any questions concerning this issue, please contact the VAP central office at (614) 644-2924.