

ARCHIVE: Archived due to the 2009 rule revision. Refer to VA30007.09.033 for the updated document.

TITLE: Alternative Point of Compliance for Residential Land Use

**DATE
EFFECTIVE:** January 2006

HISTORY: New addition to the Technical Guidance Compendium

KEYWORDS: Point of compliance (POC), residential land use, restricted land use, engineering control, environmental covenant, activity and use limitations, remedial activities

**RULE/
AUTHORITY:** OAC 3745-300-07(G)(1)(a) and (G)(4), 3745-300-15

QUESTION: Are there options available to use a shallower point of compliance for residential land use?

ANSWER: VAP rules require a minimum 10-foot point of compliance (POC) for direct contact with soil for properties to support unrestricted land use or residential land use with no limitations or restrictions. See OAC 3745-300-07(G)(1)(a)(i)(a). If the concentration of COCs in soils on a property meet applicable standards for residential land use to a depth shallower than 10 feet but not to the required 10-foot depth, then the property does not comply with requirements for unrestricted residential land use. Although an acceptable remedial option would be to remediate the property so that applicable standards for residential land use are met to the 10-foot depth, there are other remedial options available. However, restrictions or limitations will have to be placed on the property in the form of engineering and/or institutional controls.

When residential standards are not met to a depth of 10 feet, various restrictions or limitations in the form of engineering and/or institutional controls have been used to bring the property into compliance with VAP rule requirements. For example, a restricted residential land use has been applied to several VAP properties, which have met applicable standards for residential land use in soils to a depth shallower than 10 feet. This type of land use may be appropriate where activity and use limitations in an Environmental Covenant

restrict the land use to apartment or condominium settings, community athletic fields or parks, or other land uses where the use of residential standards are determined to be appropriate. Other examples of restrictions or limitations include the use of engineering controls. The soils from the surface to a depth shallower than the 10-foot POC have been treated as a landscaped engineering control with digging restrictions and provisions that address the management of these soils. Also, a concrete cap has been used to prevent exposure to contaminants in soil that are above the 10-foot POC. Of course, the maintenance of any engineering control must be addressed in an operation and maintenance plan and agreement. Through the use of these or similar restrictions, a property may be developed for a restricted residential land use that is consistent with VAP rule requirements.

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CONTACT:

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