

**3745-300-10 Ground water classification and potable use response requirements, and urban setting designations.**

- (A) Obligation to classify ground water zones identified in paragraph (F)(2) rule 3745-300-07 of the Administrative Code. Ground water underlying a property must be classified in accordance with the criteria of this rule and paragraphs (F)(7) and (F)(8) of rule 3745-300-07 of the Administrative Code unless one of the following conditions apply:
- (1) The ground water zone does not contain concentrations of chemicals of concern in excess of unrestricted potable use standards as determined in accordance with a phase II property assessment conducted in accordance with paragraph (F)(3) of rule 3745-300-07 of the Administrative Code.
  - (2) The response requirements consistent with critical resource ground water under paragraph (E) of this rule are implemented for ground water zones exceeding unrestricted potable use standards underlying and emanating from the property.
- (B) Ground water classification system. A ground water zone is not classified when the ground water contained within does not exceed unrestricted potable use standards.
- (1) Critical resource ground water. A ground water zone that meets any of the following criteria is classified as critical resource ground water:
    - (a) The ground water zone is being used by a public water system and is in a "drinking water source protection area for a public water system using ground water."
    - (b) The ground water zone is located in an unconsolidated saturated zone that is capable of yielding water at a time-weighted average rate greater than one hundred gallons per minute over a twenty-four hour period as determined in accordance with paragraph (F)(8) of rule 3745-300-07 of the Administrative Code.
    - (c) The ground water zone is in a consolidated saturated zone that is part of a sole source aquifer.
  - (2) Class A ground water. A ground water zone that does not meet any of the criteria for critical resource ground water and meets any of the following criteria is classified as a "Class A" ground water zone:
    - (a) The ground water zone is currently utilized as a source of potable water on the property or within one-half mile of the boundary of the property.
    - (b) The ground water within the zone has a background level of total dissolved solids of less than three thousand milligrams per liter, and except as provided in paragraph (B)(2)(c) of this rule, the ground water zone is capable of yielding water at a time-weighted average rate greater than one-tenth of a gallon per minute over a twenty-four hour period. The ground water yield must be determined in accordance with paragraph (F)(8) of rule 3745-300-07 of the Administrative Code.
    - (c) The ground water zone is not a "Class A" ground water if the zone meets either of the following criteria:
      - (i) The zone to be classified yields less than three gallons per minute as determined in accordance with paragraph (F)(8) of rule 3745-300-07 of the Administrative Code, and another ground water zone underlies the property that is a potential source of potable water within one mile of the property. The ground water zone used for comparison must be present both beneath the property and the surrounding area off-property, be capable of yielding three or more gallons per

minute, and produce at least twice as much ground water as the zone being classified.

- (ii) The ground water zone to be classified yields less than three gallons per minute over a twenty-four hour period and all parts of the zone are wholly contained within fifteen feet below ground surface.

(3) Class B ground water. A ground water zone that does not meet any of the criteria for either critical resource or a "Class A" ground water zone is classified as "Class B" ground water.

(C) Urban setting designation criteria and process.

An urban setting designation may only be used for purposes of eliminating the potable use pathway for areas surrounding the property and may only be requested through a certified professional. An urban setting designation does not impact ground water response requirements for on-property or off-property pathways unrelated to the potable use of ground water.

- (1) Threshold criteria. A certified professional may request an urban setting designation from the director for a property meeting the following threshold criteria:
  - (a) Location. The property is entirely within the boundaries of a community; for the purposes of this rule, community means any one of the following:
    - (i) A township with a population of twenty thousand or more residents in the unincorporated area of the township.
    - (ii) The unincorporated portion of a township that has an average population density of six hundred fifty people per square mile within the unincorporated area of the township.
    - (iii) The corporation boundaries of a city.
    - (iv) The boundaries of a former township that is entirely composed of municipal corporations.
    - (v) An area that is completely surrounded by areas that are otherwise eligible as described in paragraphs (C)(1)(a)(i) to (C)(1)(a)(iv) of this rule.
  - (b) Community water supply connectability - ninety per cent or greater. A community water system must be present and one of the following must be demonstrated:
    - (i) Ninety per cent of the parcels within the communities, as described in paragraph (C)(1)(a) of this rule, for which the designation is requested are connected or capable of being connected to the community water system. Parcels in unincorporated areas that are wholly surrounded by the community must also be considered in the calculation of parcels connected.
    - (ii) Ninety per cent of the parcels within a minimum of one-mile from the proposed boundary of the urban setting designation are connected or capable of being connected to the community water system. Parcels in unincorporated areas that are wholly surrounded by communities, as described in paragraph (C)(1)(a) of this rule, must also be considered in the calculation of parcels connected.
  - (c) Community water supply connectability - less than ninety per cent. If the evaluation conducted under paragraph (C)(1)(b) of this rule indicates that less than ninety per cent of the parcels are connected

or are capable of being connected to a community water system, an urban setting designation for the property may still be requested provided that one or both of the following apply:

- (i) The parcels that are not connected or capable of being connected to a community water system would be unaffected by hazardous substances or petroleum on or emanating from the properties within the urban setting designation.
- (ii) Installation of wells used for potable water supply purposes at the parcels that are not connected or capable of being connected to a community water system would be impractical for reasons other than ground water quality or the presence of the community water system. The following criteria may be considered when demonstrating that well installation would be impractical:
  - (a) Land use patterns (e.g., the parcel is on the right-of-way of a highway).
  - (b) Topography.
  - (c) Legally enforceable and reliable restrictions.
- (d) Water supply - future needs. The community, as described in paragraph (C)(1)(a) of this rule, has a community water system that the community considers capable of meeting its future water supply needs.
- (e) Drinking water source protection areas. The property for which the designation is requested is not located within a "drinking water source protection area for a public water system using ground water." An urban setting designation for a property located within a "drinking water source protection area for a public water system using ground water," where the public water supply is a community system, may still be requested if the owner of the community water system has a "drinking water source protection plan," and the owner consents in writing to the designation.
- (f) Potable use wells. Wells connected for potable water supply purposes must not be located in or within one-half mile of the defined boundary of the property or properties for which designation is requested. The existence of potable wells must be determined in accordance with the criteria of paragraph (F)(7)(a) of rule 3745-300-07 of the Administrative Code. If potable wells are located in or within one-half mile of the defined boundary, the property may still be designated, if either of the following occurs:
  - (i) The wells are part of a community water system with a "drinking water source protection plan" and the owner of the community water system consents in writing to the designation.
  - (ii) The certified professional requesting the designation demonstrates that the "capture zones" of any wells connected for potable water supply purposes in or within one-half mile of the defined boundary do not extend under the property for which the designation is requested.
- (g) Other ground water resource considerations. When the property for which designation is requested is located over either a "sole source aquifer" in a consolidated saturated zone or an unconsolidated ground water zone capable of sustaining a yield greater than one hundred gallons per minute, as determined in accordance with paragraph (F)(7)(b) of rule 3745-300-07 of the Administrative Code, the certified professional must provide additional lines of evidence to demonstrate that there is not a reasonable expectation that there will be any wells installed or used for potable water supply purposes within one-half mile of the property boundary. The certified professional must consult with the owner of the community water system and the appropriate legislative authority or its authorized

representative, and at a minimum, consider all of the following criteria to make this demonstration:

- (i) The presence of legally enforceable, reliable restrictions on ground water use, other than those imposed for wellhead protection or ground water protection purposes.
  - (ii) Whether current land use patterns in or within one-half mile of the property being designated or ground water quality make development of a well impractical.
  - (iii) Whether ninety per cent or more of the parcels in or within one-half mile of the property being designated is connected to a community water system.
  - (iv) Whether the capture zones of any wells that can reasonably be expected to be installed or connected in or within one-half mile of the property boundary would not extend under the property for which designation is requested.
- (2) Approval or denial of a request for an urban setting designation. An urban setting designation may not be used for purposes of classifying ground water and determining applicable standards under this chapter and Chapter 3746. of the Revised Code until the director approves the urban setting designation in accordance with this paragraph.
- (a) Request for approval of designation. A certified professional must send a written request to the director for approval of an urban setting designation in the format prescribed by the agency. The request for approval must include, at a minimum, the following:
- (i) The requested urban setting designation must be based upon a defined property boundary consisting of one or more of the following:
    - (a) The area described by the plat of a survey completed (signed and sealed) by a professional surveyor under Ohio law.
    - (b) The entirety of a city as may be established by that municipality and Chapter 709. of the Revised Code; or the entirety of a township as may be established by Chapter 503. of the Revised Code (i.e., by certified copy of the recorded plat or map establishing the legal boundary of the entire city or the entire township at the time of the request).
    - (c) The area described by complete and adjacent parcels of real property shown on a plat or other recorded documents maintained by the county or political subdivision. Any urban setting designation boundary that divides a parcel shall be determined by a survey completed by a professional surveyor under Ohio law.
  - (ii) The name and address of each applicant seeking the designation requested by the certified professional, a description of the location and size of the property, and if known, whether the legislative authority of the communities, as described in paragraph (C)(1)(a) of this rule, which the property is located is in favor of or in opposition to the proposed designation;
  - (iii) An affidavit by the certified professional which affirms the following:
    - (a) The urban setting designation threshold criteria contained in paragraphs (C)(1)(a) to (C)(1)(g) of this rule are met.
    - (b) A true and accurate copy of all documents which form the basis of the certified professional's

determination that the urban setting designation threshold criteria in paragraph (C)(1) of this rule have been met is attached.

- (c) An "11 x 17" inch or smaller reproducible figure that is an aerial photo or topographic map that identifies the defined boundary for the requested designation and a one-half mile radius around the boundary is attached.
- (d) Notice, in accordance with paragraph (C)(2)(b) of this rule, was provided.
- (iv) The documents identified in paragraphs (C)(2)(a)(iii)(b) and (C)(2)(a)(iii)(c) of this rule.
- (b) Notice. Notification of a request for the director's approval of an urban setting designation must be provided to the legislative authority or authorized representative of any county, township and municipality in which the property for which the designation is sought is located, and to the legislative authority of any county, township and municipality whose boundaries are in or within one-half mile of the property for which the designation is sought. The notice must be made contemporaneously with a request for approval under paragraph (C)(2)(a) of this rule. The notice must include, at a minimum, the following:
  - (i) An explanation of the voluntary action program.
  - (ii) The purpose of an urban setting designation.
  - (iii) The threshold criteria for a designation and the fact that the director must approve of the designation after consulting with the community in which the property is located.
  - (iv) A copy of the documents outlined in paragraph (C) of this rule.
  - (v) The location of and a description of the defined boundary of the property for which the designation is sought.
  - (vi) The applicable standards that apply to the ground water and source areas of ground water contamination and the point of compliance, if approval for the designation is not received.
  - (vii) The applicable standards that apply to the ground water and source areas of ground water contamination and the point of compliance, if approval for the designation is received.
  - (viii) A statement which advises the legislative authority that the director will consult with it regarding the designation and it is encouraged to provide written comments or any information relevant to the director's consideration of the designation.
  - (ix) A statement that a decision may be made by the director within ninety days after the director has consulted with the community where the property is located.
- (c) Information. After receipt of a complete request for approval of an urban setting designation, the director may request any additional information from the certified professional, the applicant, local jurisdictions or residents, which may be relevant to determining whether or not to approve of the designation. Failure by a certified professional or applicant to cooperate with any request under this paragraph may result in the director's refusal to consider the request for approval. At the director's discretion, a public meeting may be held on the request for approval.
- (d) Consultation. No later than ninety days after receipt of a complete request for approval of an urban

setting designation the director will complete consultation with the legislative authority or authorized representative of the community in which the property is located, or any other persons which the director deems appropriate, to obtain sufficient information for determining whether to approve or deny the request, as provided in paragraph (C)(2)(e) of this rule.

- (e) Criteria for approval or denial. The director may approve or deny the request for approval of an urban setting designation, after consulting with the legislative authority or authorized representative of the community where the property for which the designation is sought is located. The director may approve or deny a request for approval under this paragraph upon consideration of one or more of the following factors, as relevant:
- (i) Whether all of the applicable threshold criteria contained in paragraph (C)(1) of this rule have been met for the property for which the designation is being sought.
  - (ii) The potential impact of the designation on surrounding jurisdictions or communities.
  - (iii) The potential impact of the intended designation on regional water resource needs and the consistency of the designation with any existing regional water resource obligations of the community where the property for which the designation is sought is located, including any "drinking water source protection plans" for ground water in the area.
  - (iv) Whether the ground water in the region or area where the property for which the designation is sought is not currently being used by residents as a source of water used for potable purposes such that the risk of exposure to humans of contaminated ground water as a result of the designation is not likely.
  - (v) Whether the ground water in the region or area where the property for which the designation is sought is located is not reasonably expected to be used as a future source of water used for potable purposes by residents such that a risk of exposure to humans of contaminated ground water as a result of the designation is not likely. For purposes of this evaluation, the director shall consider but is not limited to considering the following:
    - (a) The likelihood of future water use by local residents in light of the existence of regional, commingled contamination in the area surrounding the property for which the designation is sought.
    - (b) The existence of reasonably available alternative potable water sources, other than the ground water proposed for designation, to satisfy the future needs of local residents.
    - (c) The existence of reliable, legally enforceable local laws which restrict or prohibit the use of the ground water proposed for designation, such that the risk of exposure of humans to contaminated ground water as a result of the designation is not likely.
  - (vi) The availability and feasibility of treatment systems at community water systems that are capable of preventing exposures to ground water with concentrations of chemicals of concern in excess of unrestricted potable use standards.
  - (vii) Any other factors pertaining to the request for approval that the director considers relevant to determine whether the designation will be protective of public health and safety and the environment.

- (f) Costs. The applicant seeking the urban setting designation is responsible for reimbursing the agency for all of the costs incurred to review and consider the request for the urban setting designation. A statement of costs will be sent to the applicant after the request is approved, denied, or withdrawn. The applicant must pay the costs, in full, within sixty days of receipt of the statement of costs.
- (g) Timing. The director will approve or deny a request for an urban setting designation within ninety days after the following:
  - (i) Receiving a complete request, as set forth in paragraph (C)(2)(a) of this rule.
  - (ii) Consultation with each community, as provided in paragraph (C)(2)(d) of this rule.

The director may extend the time for approving or denying a request for approval if the director determines that an extension of time is necessary to properly consider the request. If the director extends the time for considering the request for approval the agency will notify the applicant, and other interested persons, of the extended deadline for denying or approving the request.

- (3) Use of an urban setting designation to support a no further action letter. An urban setting designation approved by the director may be used to determine the appropriate ground water response requirements in paragraph (E) of this rule. The certified professional must verify in accordance with this rule that the urban setting designation remains protective of the potable use pathway for property that is the subject of a no further action letter. The certified professional must make the verification at the time of and as part of issuance of the no further action letter for the property. Verification is not required when there is reason to believe that the urban setting designation remains protective of the potable use pathway because conditions are unchanged since the urban setting designation request or most recent verification of record. When a certified professional determines that verification is not required for a property pursuant to this rule, the certified professional must provide written justification for the determination in the phase II property assessment report for the property.
  - (a) To verify the urban setting designation, the certified professional must consider the criteria included in paragraph (C)(3)(b) of this rule and determine that the criteria are still protective of the potable use pathway.
  - (b) Criteria for verifying that an urban setting designation is protective. To verify, the certified professional must evaluate the following criteria:
    - (i) Whether additional wells have been installed in or within one-half mile of the defined urban setting designation boundary or the geographic area that are or will be impacted by the chemicals of concern at or from the property. This evaluation must be accomplished at a minimum by doing the following:
      - (a) Reviewing the ground water well logs submitted to the Ohio department of natural resources since the request for, or most recent verification of, the urban setting designation. If wells have been installed, the certified professional must determine whether the wells are being or are reasonably anticipated to be used for potable purposes.
      - (b) Contacting the county health department or other local authorities with jurisdiction over installation of wells used for potable purposes to determine if any residential wells are or are reasonably anticipated to be used for potable purposes.
    - (ii) If a determination, in accordance with paragraph (C)(3) of this rule, is made that new potable

wells have been installed or if previously unknown potable wells are discovered, the urban setting designation may be verified to be protective of the potable use pathway as long as either of the following criteria are met:

- (a) The wells are part of a community water system with a "drinking water source protection plan" and the owners of the community water system consents in writing to the use of the urban setting designation in support of the no further action letter.
  - (b) The capture zones of any wells installed or used for potable water supply purposes in or within one-half mile of the property boundary do not extend under the property for which the urban setting designation applies.
- (iii) If ordinance or other imposed restrictions on the potable use of ground water were used as part of the urban setting designation, determine whether the restrictions are still valid.
- (iv) Whether any new "drinking water source protection areas for a public water system using ground water" have been delineated that incorporate areas within the urban setting designation.
- (v) Evaluate whether the ground water in the region or area within or surrounding the urban setting designation is or is reasonably anticipated to be used as a source of potable water by doing the following:
- (a) Contacting the owner or operator of each public water system in the region or area and communities, as described in (C)(1)(b) of this rule, and their planners to determine:
    - (i) Whether the public water systems are meeting the current water use demands.
    - (ii) If there are any plans to develop ground water either within or in the vicinity of the urban setting designation as a source of potable water.
  - (b) As applicable to the property that is the subject of the no further action letter, contacting the surrounding communities to determine whether there are any plans to develop the ground water in the vicinity of the urban setting designation.
- (c) In verifying an urban setting designation, the certified professional may rely upon the certified professional's evaluation of the criteria contained in paragraph (C)(3)(b) of this rule or the director's evaluation, if any, of the urban setting designation provided for in paragraph (C)(4) of this rule. Use of the director's evaluation of the urban setting designation in accordance with paragraph (C)(4) of this rule to meet the requirements of this paragraph is acceptable if the urban setting designation has been recently approved by the director or the criteria contained in paragraph (C)(3)(b) of this rule have been recently evaluated and determined to be protective of the potable use pathway. In this situation, the certified professional do not need to verify the urban setting designation where changed conditions do not otherwise exist. However, the director reserves authority to evaluate the protectiveness of the urban setting designation as it applies to a submitted no further action letter in determining whether a covenant not to sue may be issued.
- (4) Periodic protectiveness verification. The director may implement a program to periodically verify the protectiveness of an urban setting designation at eliminating a potable use pathway. Based on an evaluation of the criteria in paragraph (C)(3)(b) of this rule, the director may determine that the urban setting designation is still valid or that it is no longer valid. The director may decrease the size of the urban setting designation so that the decreased area remains protective of the potable use pathway.

- (a) The director will make available any determinations regarding urban setting designations to certified professionals.
- (b) If the director determines that an urban setting designation is no longer valid or decreases its size in accordance with this rule, the agency will notify certified professionals and the original applicants of the urban setting designation. In addition, the director's determination will be public noticed in any affected county.

(D) Protection of ground water meeting unrestricted potable use standards.

- (1) When any ground water zone underlying the property complies with unrestricted potable use standards, the remedial activities must ensure that contamination will not result in unrestricted potable use standards being exceeded anywhere within any ground water zone underlying the property that otherwise meets the standards. However, when the contamination exceeding standards is entirely the result of source areas from off-property releases, this provision for protection of ground water does not apply for protection of another ground water zone, except when any of the criteria in paragraphs (E)(1)(b)(i) to (E)(1)(b)(iv) of this rule are applicable.
- (2) Except as provided in rule 3745-300-12 of the Administrative Code, no provision of this chapter modifies the requirements of this paragraph.

(E) Response requirements for ground water zones exceeding unrestricted potable use standards.

- (1) Assigning responsibility for purposes of this rule for chemicals of concern in ground water zones.
  - (a) The requirements of paragraphs (E)(2) to (E)(6) of this rule apply to the volunteer when chemicals of concern released to ground water originate from a source area on the voluntary action property or when chemicals of concern released to ground water originate from an off-property source area and the volunteer is responsible for addressing the release, as specified in paragraph (E)(1)(b) of this rule.
  - (b) The volunteer is responsible for addressing requirements of paragraph (E)(3)(a), (E)(3)(b), or (E)(4) of this rule for chemicals of concern originating from a release from an off-property source area when any of the following apply:
    - (i) The owner of the voluntary action property was an owner or operator of any property, other than the voluntary action property, where any source area was located during the owner's ownership of or operation on any such property, and hazardous substances or petroleum on or from the off-property source area onto the voluntary action property.
    - (ii) The volunteer, or owner if different from the volunteer, caused or contributed to the source areas or release.
    - (iii) The volunteer, or owner if different from the volunteer, has entered into an agreement with any person with the purpose or effect of creating a less stringent ground water standard than would otherwise be applicable in this rule.
    - (iv) The volunteer is a parent, subsidiary, or other commonly owned entity of any party identified in paragraphs (E)(1)(b)(i) to (E)(1)(b)(iii) of this rule.

- (2) Response requirements that apply to all ground water classifications.

For all ground water classifications (class A, class B, and critical resource) the volunteer must implement institutional controls or engineering controls that reliably prevent human exposure on the property to ground water with concentrations of chemicals of concern in excess of unrestricted potable use standards, or restore the ground water underlying the property to those unrestricted potable use standards.

[Comment: Engineering controls may include the use of water treatment systems.]

- (3) Response requirements that apply to "Class A" ground water zones without an urban setting designation or critical resource ground water zones with or without an urban setting designation.

Ground water on or from the property must not exceed unrestricted potable use standards at the point of compliance, except as described in paragraph (E)(3)(c) or (E)(3)(d) of this rule.

Consistent with paragraph (E)(1) of this rule, the volunteer must comply with or implement remedial activities that reliably bring the property into compliance with the following:

- (a) Unrestricted potable use standards must be met at the property boundary, unless the volunteer chooses to demonstrate an alternative point of compliance under the following circumstances:
- (i) If the property is in an urban setting designation and the ground water zone is critical resource, the point of compliance is the urban setting designation defined boundary or one-half mile from the property boundary, whichever is greater.
  - (ii) If ground water discharges to an off-property surface water body that is in close proximity to the property and there is no complete exposure pathway for potable use off-property, as determined in accordance with paragraph (F)(1) of rule 3745-300-07 of the Administrative Code, the point of compliance is the surface water body. The applicable standards established in paragraph (G) of rule 3745-300-08 of the Administrative Code or paragraph (G) of rule 3745-300-09 of the Administrative Code for the receiving surface water body must be met instead of unrestricted potable use standards.
  - (iii) If the property's down gradient boundary is adjacent to an established transportation corridor, such as a public road or railroad, the point of compliance is the most distant edge of the transportation corridor.
  - (iv) If an activity and use limitation in an environmental covenant pursuant to sections 5301.80 to 5301.92 of the Revised Code restricts the potable use of ground water on an adjacent down gradient property, the point of compliance is the down gradient edge of the adjacent property.
  - (v) If the property boundary bisects a landfill, the point of compliance is the down gradient edge of the lateral extent of the landfill.
- (b) A volunteer must meet either of the following requirements for ground water containing chemicals of concern that have impacted any off property potable use wells above unrestricted potable use standards:
- (i) Restore the contaminated ground water to unrestricted potable use standards.

(ii) Provide a reliable alternate potable water supply or water treatment system that does the following:

(a) Provides a volume of potable water sufficient for the intended use.

(b) Is provided for a period of time no shorter than the time that the ground water supply of off-property ground water users exceeds unrestricted potable use standards due to sources for which the volunteer is responsible.

(c) If the contamination is due to off-property sources in whole or in part, then the volunteer must implement remedial activities to prevent leaching of chemicals of concern from source areas on the property that are reasonably anticipated to result in unrestricted potable use standards being exceeded at the point of compliance determined from paragraph (E)(3)(a) of this rule. This paragraph does not apply if any of the provisions in paragraphs (E)(1)(b)(i) to (E)(1)(b)(iv) of this rule are applicable.

(d) When ground water emanates from the property into a surface water body immediately adjoining the property boundary, the applicable standards established in paragraph (F) of rule 3745-300-08 of the Administrative Code or paragraph (G) of the rule 3745-300-09 of the Administrative Code for the receiving surface water body must be met.

(4) Notification and evaluation of ground water use requirements for critical resource ground water zone.

The following paragraphs are applicable where ground water has or is reasonably anticipated to have contamination in excess of unrestricted potable use standards, except when in an urban setting designation. If the property is within an urban setting designation, the following paragraphs are applicable where ground water has or is reasonably anticipated to have contamination in excess of unrestricted potable use standards beyond the urban setting designation boundary or beyond a distance of one-half mile from the property boundary, whichever is greater.

(a) Prior to issuance of the no further action letter, the volunteer must send a written notification by certified mail to the applicable local health department and all owners of properties in areas where ground water has or is reasonably anticipated to have concentrations of chemicals of concern in excess of unrestricted potable use standards that includes the following:

(i) The location and a description of the property where the voluntary action has taken place.

(ii) A summary of the releases or type of chemicals of concern that were assessed as part of the voluntary action and the remedial activities that were taken or are being taken in response to the releases.

(iii) A description of the concentrations of chemicals of concern in ground water that has or may migrate onto or under the properties in areas where ground water has or is reasonably anticipated to have concentrations of chemicals of concern in excess of unrestricted potable use standards.

(iv) A summary of the unrestricted potable use standards for the chemicals of concern that have emanated from the property.

(v) A description of the requirements contained in paragraph (E)(4)(b) of this rule that the volunteer, or subsequent owners relying on a no further action letter, that address exposures of humans to

ground water with concentrations of chemicals of concern in excess of applicable standards.

- (vi) A request for information concerning any current or intended use of ground water in areas where ground water has or is reasonably anticipated to have concentrations of chemicals of concern in excess of unrestricted potable use standards, along with the name, address and phone number of a representative of the volunteer, or subsequent owner relying on a no further action letter who can be notified of any current or intended use of ground water or contacted for further information.

(b) Ongoing obligations after issuance of a covenant not to sue.

The volunteer or other person responsible for compliance with applicable standards must, beginning in the year following the issuance of the covenant not to sue for the property, conduct the following activities:

- (i) At least annually, review Ohio department of natural resources water well log and applicable health department information for the properties where ground water has or is reasonably anticipated to have concentrations of chemicals of concern in excess of unrestricted potable use standards to determine whether new ground water wells have been installed. If any new potable use wells are discovered, implement remedial activities consistent with requirements in paragraph (E)(3)(b) of this rule as needed for compliance with applicable standards.
- (ii) At least annually, identify any known changes and inquire of changes in ownership of properties in areas where ground water has or is reasonably anticipated to have concentrations of chemicals of concern in excess of unrestricted potable use standards. If there is any change in ownership, provide the new owners with the notification prescribed in paragraph (E)(4)(a) of this rule.
- (5) The volunteer must implement the applicable requirements of paragraphs (E)(3)(b) and (E)(4)(b) of this rule through an operation and maintenance plan, prepared in accordance with rule 3745-300-11 of the Administrative Code or through another method prescribed by that rule.
- (6) All remedial activities, including institutional controls or engineering controls, must be implemented in accordance with rule 3745-300-11 of the Administrative Code or other applicable law.

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