

65-1,228. Same; restrictions or prohibitions. (a) An environmental use control pursuant to this act may restrict or prohibit the activities at or uses of property. The restrictions imposed shall be those agreed to by the applicant and deemed necessary by the department to protect the public from exposures to contaminants which remain at the property.

(b) An environmental use control pursuant to this act may include or require the following:

- (1) Prompt notification to the department of any transfer of the property, such notice to be given by the transferor;
- (2) prompt notification to the department of any change in use of the property, such notice to be given by the property owner;
- (3) maintenance of protective structures or remedial systems at the property, such as soil caps, soil covers, soil surfaces, berms, drainage structures, vegetation, monitoring wells or other structures or systems;
- (4) access to the property by agents of the department as necessary to inspect and monitor remediation activities, monitoring wells, surface streams and protective structures or remedial systems and to ensure implementation and enforcement of the requirements, restrictions and other limitations of the environmental use controls;

(5) any other obligations necessary to reduce or eliminate risks or threats to human health and the environment from the property; or

(6) a one-time payment or long term care agreement to provide funding for environmental use control oversight.

(c) Restrictions, prohibitions and zoning requirements placed on property by a local or state government may be substituted in place of an environmental use control. Such restrictions, prohibitions and zoning requirements may be utilized in addition with any environmental use controls approved by the department. This provision does not grant or expand authority of local government to restrict, prohibit, zone or regulate land.

(d) All interests not limited by the environmental use control shall remain with the owner.

History: L. 2003, ch. 130, § 8; July 1.