

COMMENTS REGARDING: Draft TGD: Appendix II-A
The use of Caps as Activity and Use Limitations (261-0300-101)

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Thank you for the opportunity to comment on draft TGD to be appended to the Act 2 Land Recycling Program Technical Guidance Manual.

Comment #1 TITLE

Act 2 of 1995, The Land Recycling and Environmental Remediation Standards Act Section 103 states:

*"Engineering controls." Remedial actions directed exclusively toward containing or controlling the migration of regulated substances through the environment. These include, but are not limited to, slurry walls, liner systems, **caps**, leachate collection systems and groundwater recovery trenches." (emphasis added).*

Therefore, a more appropriate title of the document would be, "**The Use of Caps as Engineering Controls**". This would appear to have been the working title of the document through version 4. Notably, all the words "engineering" and "engineering control" are now absent from the draft TGM.

Comment #2 PURPOSE

As published, the draft TGM appears to include language that applies to the Department's revised Vapor Intrusion Guidance and not the titled guidance.

Comment #3 DEFINITIONS

It is not clear that any definitions are provided in the guidance as stated in this section.

Comment #4 APPENDIX II-A

The text contained in this appendix makes numerous references to technical terms and words of art associated with the profession of Engineering. These include low permeability caps, as-built plans, freeze/thaw cycles, settlement, storm water management, design goals, cap designs, specifications, performance specifications, slope stability ratios, stormwater runoff velocities, structural caps, pavement systems, and structural integrity to name just a few.

In the Commonwealth, much of the activity described in this TGM should or must be performed by a licensed Professional Engineer. Caps utilized as engineering controls for demonstrating attainment of an Act 2 standard should be designed by Civil and Geotechnical Professional Engineers. County and Municipal Permits for the construction of such caps typically require the submission of plans that are prepared, signed, and sealed by a Professional Engineer.

A concern exists that the user of this TGM might not be aware of this need given the current state of the draft document. At a minimum, the user should be advised that the design of Engineering

Controls in the form of caps may very likely be required under existing statute to be performed by a Professional Engineer. In Pennsylvania:

“In order to safeguard life, health or property and to promote the general welfare, it is unlawful for any person to practice or to offer to practice engineering in this Commonwealth, unless he is licensed and registered under the laws of this Commonwealth as a professional engineer,”

The Department has historically been a strong advocate of the need for licensed professionals to complete studies, designs, reports, and certifications necessary to ensure compliance with the content and spirit of the regulations. **It is strongly recommended that the draft TGM be revised to incorporate language that alerts the user to the requirement to have the work completed by a Professional Engineer.**

This requirement would be consistent with the Department’s existing policies regarding submission of Clean Up Plans and Final Reports under Act 2 (and also Remedial Action Plans and Remedial Action Completion Reports under Act 32). When these reports or Post Remediation Control Plans (PRCPs) include engineering controls or otherwise involve the practice of engineering, they must be sealed by a Professional Engineer licensed in the Commonwealth. Highlighting this requirement should only inure to the benefit of the Department and the Citizens of the Commonwealth in the form properly and professionally prepared engineering designs and certifications for engineering controls.