

# Consideration of Proposed Rulemaking Administration of the Uniform Environmental Covenants Act 25 Pa. Code, Chapter 253

Environmental Quality Board December 15, 2009

Tracey Vernon
Acting Deputy Secretary





- Uniform Environmental Covenants Act (UECA)
  - Signed: December 2007
  - Effective: February 2008
  - 1st Legislative Enactment to impact the Land Recycling Program since 1995





- Uniform Environmental Covenants Act (UECA)
  - Based on a "uniform act" drafted by the National Conference of Commissioners on Uniform State Laws
  - Similar legislation adopted in 20 other states
  - Creation of Environmental Covenants to ensure long term environmental stewardship





- UECA requires the use of an Environmental Covenant when <u>engineering</u> or <u>institutional</u> <u>controls</u> are used to demonstrate attainment of a remediation standard under:
  - Land Recycling and Environmental Remediation Standards Act (Act 2)
  - Storage Tank and Spill Prevention Act (Tank Act)

Engineering Controls
Caps, Liner Systems, Slurry
Walls, etc.

Institutional Controls
Groundwater Use Restrictions,
Fencing, etc.



- Previous deed restrictions must be converted to an Environmental Covenant by <u>February 2013</u>
- Environmental Covenants will transfer with the property and enforced by multiple parties and the Department
- Department required to develop and maintain a registry of Environmental Covenants





## **Major Provisions**

- Establish requirements for submission of an Environmental Covenant to demonstrate attainment or maintenance of an environmental remediation standard under Act 2 or the Tank Act
  - Standards for form, content, and submission of Environmental Covenants
  - Process for converting prior restrictions
  - Waiver process
  - Requirements for County Recorders of Deeds





## **Major Provisions**

#### Fees

- + \$350 per Environmental Covenant
- No fee required for conversion of deed restrictions if not a responsible party
- Board will evaluate fees every 3 years
- Fee will cover the cost to develop the registry and staff costs





## Rulemaking Impact

- Rulemaking will affect owners/operators and purchasers of properties
  - Volunteer or are required to remediate contaminated sites
  - When the remediation is performed to attain or maintain an Act 2 standard requiring an activity and use limitations
- Anticipate submission of approximately 250 to 350 Environmental Covenants annually

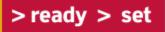




## Advisory Committee Discussions

- No formal review required under UCEA; however, DEP discussed with:
  - Cleanup Standards Scientific Advisory Board
    - September 1, 2009
  - Storage Tank Advisory Committee
    - September 8, 2009
    - December 8, 2009









### Recommendation

The Department recommends approval of the proposed Chapter 253 rulemaking, with a 30-day public comment period.





#### **Tracey Vernon**

**Acting Deputy Secretary** 

#### **Troy Conrad**

Director, Land Recycling Program

#### Kurt Klapkowski

Bureau of Regulatory Counsel

