



Chapter 253

Administration of the Uniform Environmental Covenants Act (UECA)

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Office of Community Revitalization & Local Gov't Support



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Final Rulemaking

Administration of the Uniform Environmental
Covenants Act

25 Pa. Code, Chapter 253

Staff:

Denise Brinley, Deputy Secretary

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Kurt Klapkowski, Assistant Counsel

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Background

Uniform Environmental Covenants Act (UECA)

- Signed: December 2007
- Effective: February 2008
- First legislative amendment to impact the Land Recycling Program since 1995



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Background, continued

- Based on a “uniform act” drafted by the National Conference of Commissioners on Uniform State Laws
- Similar legislation adopted in 21 other states, DC and USVI
- Creation of environmental covenants to ensure long term stewardship of activity and use limitations



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Background, continued

- UECA requires the use of an environmental covenant when *engineering* or *institutional* controls are used to demonstrate attainment of a remediation standard under both Act 2 and the Storage Tank and Spill Prevention Act (Tank Act)



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Background, continued

- Previous deed restrictions must be converted to an environmental covenant by February 2013
- Environmental covenants transfer with the property and are enforced by DEP
- DEP required to develop and maintain a registry of environmental covenants (in progress)



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Major Provisions

- Establish requirements for submission of an environmental covenant to demonstrate attainment of a 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 the County Recorder of Deeds



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Major Provisions

- Fees
 - \$500 per environmental covenant*
 - No fee for conversion of deed restrictions if not a responsible party
 - Board will evaluate fees every 3 years



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Rulemaking Impact

- Affects owners, operators, and purchasers of properties
 - Volunteer or are required to remediate contaminated sites
 - Need for covenant arises when an Activity and Use Limitation is imposed



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Comments on Proposed Rulemaking

- 11 commentators
 - 10 individuals
 - IRRC



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Discussions with outside groups

- Special UECA Workgroup
- Storage Tank Advisory Committee – June 8, 2010
- Cleanup Standards Scientific Advisory Committee – June 15, 2010 and June 28, 2010



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Changes to Proposed Rulemaking

- Contents and Form of Environmental Covenant (Section 253.2)
 - New paragraph (8) in subsection (a)
 - Mandatory component of all environmental covenants
 - Addresses concerns expressed by PennDot concerning termination of environmental covenants where property is taken for use as a highway right-of-way in an eminent domain proceeding



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Changes to Proposed Rulemaking

- Notice of Environmental Covenant (Section 253.3)
 - Provision of file stamped copies of the covenant to parties is extended from 60 to 90 days.
 - DEP can extend time frame



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Changes to Proposed Rulemaking

- Submission of Environmental Covenants and Related Information (Section 253.5)
 - Most commented on during the public comment period
 - Submission process has been overhauled
 - Deleted all requirements to submit a draft environmental covenant *prior to* approval of a Final Report or Remedial Action Completion Report (RACR)
 - Only requires submissions within 30 days after DEP provides written approval of a Final Report or RACR demonstrating attainment of an Act 2 standard



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Changes to Proposed Rulemaking

- Fees (Section 253.7)
 - Fee was increased from \$350 to \$500
 - Change in DEP policy regarding environmental covenants for properties meeting the statewide health non-residential standard
 - Costs of implementing the program is divided over a smaller number of cases, requiring an increase in fees



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Recommendations

The Department recommends approval of the
final Chapter 253 rulemaking