

The background of the slide is a vibrant, multi-colored marbled paper pattern. The colors include shades of blue, green, yellow, orange, and purple, swirling together in an organic, fluid design. A light blue rectangular box is positioned horizontally across the upper-middle section of the slide, containing the main title text.

Uniform Environmental Covenants Update

Lunch 'N Learn Series

Background

- Uniform Environmental Covenants Act (UECA)
- Signed: December 2007
- Effective: February 2008
- First legislative amendment to impact the Land Recycling Program since 1995
- Regulations Effective November 20, 2010 (25 Pa. Code Chapter 253)

History

- 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

UECA Review

- 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)*

UECA Review

- 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 is required to develop and maintain a registry of environmental covenants (in progress)

Major Existing Provisions Cont.

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

Bundle of Rights Metaphor



New Rule Changes: Notice

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

New Rule Changes: Fees

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

New Rule Changes: Filings

- Submission of Environmental Covenants and Related Information
 - 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
 - Submission of DEP waivers to be made at the time of the Final Report or RACR

Conclusions

- DEP must review, approve and sign each covenant w/in 90 days or deemed approved
- Waiver has no deemed approval
- By policy – DEP will not require a covenant for non-use aquifer restriction under SHS
- Must pay \$500 fee
- Conversion of existing deed restriction can be waived by DEP until property is sold