



Environment & Energy B U L L E T I N

Is Your Deed Compliant?

Effective on Saturday, February 16, 2008, the new Uniform Environmental Covenants Act (“UECA”) applies to Act 2 (the “Land Recycling and Remediation Standards Act”) sites and other remediation activities that involve a restriction on site use. Such covenants are required for all remediation sites whenever an engineering (for example, a pavement cap on contaminated soils) or institutional control (for example, a local ordinance prohibiting use of groundwater) is used to demonstrate attainment of a cleanup standard.

This Act provides a standardized process for assuring the enforceability of activity and use limitations on previously contaminated sites in Pennsylvania. DEP has issued detailed guidelines for the covenant process that will be reflected in new regulations. This is the first time that Pennsylvania will require a standard deed document form and evidence that the deed covenant instrument is recorded.

DEP has begun to apply the UECA requirements to all Act 2 remediation sites. The Act is also retroactive, so within five (5) years, any site ‘closed’ under Act 2 that used an activity and/or use limitation to demonstrate attainment of an Act 2 standard will have to be converted to an environmental covenant and recorded under the UECA. The process is straightforward, but persons should identify previously remediated sites that need updated deed records.

Clients, including financial services entities and lenders, who are involved with property where an Act 2 closure or other remediation has occurred or is occurring should insure that the deed covenants are being revised, registered, and recorded to comply with the UECA.

Susquehanna River Basin Fee Increase



On April 23, 2008 the Susquehanna River Basin Commission held a hearing on its current proposal to increase water consumption fees 100%, with a provision that would allow the Commission to revisit and increase fees each year hereafter. For detailed information on the proposed regulation:

http://www.srbc.net/whatsnew/newsletters/article_01.asp

At the public hearing, the ski industry was represented by two commenters against the increase and the Commission heard comment in favor of the measure from both East Hanover Township and a regional water resource volunteer organization. Arguments against the increase include the fact that companies and operations within the watershed are unfairly disadvantaged in competition with operations located outside of the watershed. For example, water users in the Ohio River basin are not charged fees like those charged by the SRBC. The Commission charges ‘consumptive water use’ fees, often based upon outdated and/or incomplete consumption data and assumptions. This proposal will double the cost of water to larger water users and will ultimately affect the cost of manufactured products and water supply pricing.

Medical Facilities will now be Regulated by PA DEP

On April 1, 2008, the Pennsylvania Department of Environmental Protection (PA DEP) took primary responsibility for the regulation of radiation sources throughout the Commonwealth. As a result of the federal/state agreement, PA DEP takes the lead on all radiation licenses, permits, inspections, and enforcement actions.

All medical offices and facilities with radiation sources, including x-ray machines, will now be dealing directly with DEP. DEP is currently not sufficiently staffed to administer the approximately 6000 additional sites, but plans to increase its administrative, field, and legal staff for the enhanced program.

The Federal Energy Regulatory Commission retains regulatory authority over nuclear plants such as TMI and Peach Bottom.



If you have any questions regarding these or related topics, contact Alexandra Chiaruttini, 717.718.6402 or

achiaruttini@stockandleader.com.