

Uniform Environmental Covenants Act (UECA) for Alaska

Creates a legal mechanism to safely transfer contaminated property.

Reclaiming contaminated sites can be difficult and expensive. Total cleanup, if possible, can cost much more than the market value of the property. However, if a legal mechanism can be developed for long term control of use, some properties may be safely returned to the market.

- In 2003, the Uniform Law Commissioners created a Uniform Covenants Act to overcome inadequate common law rules. An environmental covenant allows for the sale of property with use limitations to mitigate risk.
- Alaska is one of only 7 states that do not have an environmental covenant law.
- An environmental covenant is a specific recordable interest in the real estate that would be tracked through a DEC database. The covenant would be specific to the risks posed at a particular site and would restrict activities that could result in exposure but would allow other uses to go forward which often is all that is necessary to make property viable again.
- Use restrictions would be developed by DEC exactly as they are now for Institutional Controls, utilizing risk assessments and scientific principles. EUCA would replace our existing approach of simply using deed notices as Institutional Controls.
- Commercial industries would utilize covenant restrictions as a mechanism to ensure future owners effectively manage remaining contamination.
- A covenant provides transparency throughout the life of the property and provides assurances to sellers that future exposure risks will be communicated.
- It would not supplant or impose cleanup standards. Those would continue to be managed as they currently are.
- The act would not affect the liability of the principally responsible parties but would provide a method for minimizing exposure to third parties.

The ultimate goal is to return previously contaminated property to the stream of commerce and ensure buyers are fully informed about their purchase.