



## Fact Sheet: Uniform Environmental Covenants Act Implementation Process for General State Land Managed by DNR

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### What is the Uniform Environmental Covenants Act (UECA)?

The Uniform Environmental Covenants Act is the statutory requirement for when and how the State places activity and use limitations on contaminated property to ensure the protection of human health, safety, and welfare, and the environment. These restrictions can be placed on the land through two different mechanisms, an environmental covenant<sup>1</sup> or notice of activity and use limitations (NAUL)<sup>2</sup>. With either mechanism, the use restrictions are recorded for public record and remain in place with any change of ownership. Use of NAUL is limited to when there is a legal impediment that prevents an environmental covenant, as determined by the Alaska Department of Environmental Conservation.

### What are the roles of the Department of Natural Resources (DNR) & Department of Environmental Conservation (DEC) in UECA?

DEC is the state agency charged with enforcing environmental laws and regulations affecting all land in Alaska, whether private or public. DNR is a state agency that manages a large portion of the state's land, and uses of that land. When DEC approves an environmental response project for a contaminated site on DNR managed land that would result in residual contamination remaining at levels not safe for all uses, the responsible party (RP) must also receive DNR approval for any physical implementation of the response project, and the proposed activity and use limitations.

### When is a UECA Environmental Covenant or NAUL Required?

- DEC determines when an environmental covenant or NAUL is required.
- Under Alaska Statutes 46.04.300(a):
  - An environmental covenant is required if DEC makes a remedial decision as part of an environmental response project, and that environmental response project results in [either]
    - residual contamination remaining in the environment in concentrations that are safe for some but not all uses; or
    - an engineered feature or structure that requires monitoring, maintenance, or operation or that will not function as intended if disturbed.

### DNR Adjudication Process for Environmental Response Projects involving Environmental Covenants and NAUL:

- DEC determines an environmental covenant or NAUL would be required to close the site as proposed by the RP.
- RP completes DNR's Application for Restricted Use & DNR Consent to Environmental Covenants, and submits the application along with a draft of the environmental covenant or NAUL, or at a minimum a list of the proposed activity and use limitations.
- DNR completes a two-step decision process contemplating consent to the environmental covenant or NAUL, and any associated land use activity for implementation of the environmental response project.
- If DNR approves, the process moves to the next step.

### Finalizing the DNR Approval of the Response Project & Activity and Use Limitation Implementation:

- The applicant and any commenters will have a 20-day period to request reconsideration of the decision to the DNR Commissioner. The Commissioner may order or deny a request for reconsideration within thirty (30) calendar days after issuance of the decision. If the Commissioner takes no action on a request for reconsideration within thirty

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<sup>1</sup> AS 46.04.305

<sup>2</sup> AS 46.04.340

(30) days after issuance of the decision, the request for reconsideration is considered denied. The Commissioner's decision on reconsideration is a final administrative order and decision of the Department.

- If the decision stands, DNR proceeds with executing the authorization for any remaining environmental response activities. If there are no remaining response activities proceed straight to environmental covenant or NAUL execution.
- Once response activities are completed, DNR and other signatories proceed with executing the environmental covenant or NAUL.
- The fully executed instrument gets recorded.
- The environmental covenant or NAUL may be terminated or modified pursuant to Alaska Statutes (AS) 46.04.325, AS 46.04.330, or AS 46.04.340.

**For additional information email:**

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