

# Uniform Environmental Covenants Act

*Information presented in this fact sheet is intended to provide a general understanding of the regulatory requirements governing environmental projects under most ADEM cleanup programs where contamination is left in place. This information is not intended to replace, limit, or expand upon the complete regulatory requirements found in Division 5 of the ADEM Administrative Code.*

**The Uniform Environmental Covenants Act (UECA)** applies to a property or site undergoing a response action that does not return the property to unrestricted use. The Act was passed in the 2007 legislative session and became effective January 1, 2008. The regulations associated with this Act, ADEM Admin. Code 335-5, became effective May 26, 2009, and provides an enforceable legal mechanism to ensure that required land use controls remain in place and are effective.

An Environmental Covenant is required when an approved Remediation Plan, Cleanup Plan, or Corrective Measures Implementation Plan allows a risk-based cleanup that will not result in remediation of the property or portions of the property to unrestricted use. The purpose of an Environmental Covenant is to ensure that risks to human health and/or the environment are properly managed by imposing activity and use restrictions on the applicable portions of the property and making these restrictions a legal obligation until such time that the environmental covenant is removed.

The proposed Environmental Covenant is prepared by the owner, operator, or permittee at a site or property and is submitted to ADEM for review and approval concurrently with the Remediation Plan, Cleanup Plan, or Corrective Measures Implementation Plan. Once the draft Environmental Covenant is approved, ADEM will execute and return the original document to the owner, operator, or permittee to be filed in the appropriate land records within 30 days of receipt. A copy of the recorded covenant must be returned to ADEM.

**An Environmental Covenant is not required for a property or specific portions of the property when it is remediated to a level that allows for unrestricted use.** Unrestricted use is the designation of acceptable use at a property or site where the remediation levels, based on either background or standard exposure factors, shall have been attained in all media to safely allow for property or site use for any purpose, including residential use, without any use restrictions or other measures to control potential exposures.

UECA regulations apply to environmental projects under most ADEM cleanup programs where contamination is left in place. These programs include Scrap Tire, Solid Waste, Underground Storage Tanks, RCRA, Voluntary Cleanup, Drycleaner, AHSCF Sites, and other soil or groundwater remediation actions taken under other State and federal laws, including the Federal Superfund program. The owner, operator or permittee should contact the applicable cleanup program for UECA requirements specific to that program.

UECA regulations also apply to environmental projects being conducted in the State of Alabama pursuant to other federal laws by potentially responsible parties, the Environmental Protection Agency and other federal departments such as the Department of Defense, even if the property or site being remediated is owned by the federal government.

**An Environmental Covenant must:**

- Have signatures of all Grantors, Holders, and ADEM
- Have a legal site description
- Describe in detail the approved institutional and/or engineering controls
- Be registered with the site land records in the applicable county(s) Judge of Probate Office(s)
- Be accompanied by payment of applicable fees in Fee Schedule J of ADEM Admin. Code 335-1

**UECA Enforcement**

ADEM has the primary responsibility for enforcement of restrictions and requirements listed in the Environmental Covenant. Enforcement authority is provided under Code of Alabama 1975, §22-22A-5. Other parties may enforce requirements in the covenant by civil action in courts of competent jurisdiction.

**Registry**

ADEM has established a Registry of Environmental Covenants to list all executed environmental covenants recorded in the county land records. A copy can be obtained by interested parties by contacting the ADEM Land Division at 334-271-7730 or via e-mail to [landmail@adem.state.al.us](mailto:landmail@adem.state.al.us).

**Environmental Covenant Duration and/or Termination**

Typically, an environmental covenant is perpetual unless the duration is limited or it is terminated or modified pursuant to the conditions as prescribed in ADEM Admin. Code 335-5. Termination may occur when it can be demonstrated that on-going, long-term remediation has removed all contamination or reduced contamination to levels such that risk to public health and the environment no longer exists, or subsequent removal of disposed waste has occurred.

**Additional Information**

UECA Frequently Asked Questions may be viewed at [adem.alabama.gov](http://adem.alabama.gov).

The Alabama Uniform Environmental Covenants Act is codified at Code of Alabama 1975 Title 39, Chapter 19. Regulations are found in ADEM Administrative Code Division 5, available on the ADEM website at: [www.adem.state.al.us/alEnviroRegLaws/](http://www.adem.state.al.us/alEnviroRegLaws/).

Contact the Environmental Services Branch at 334-271-7984 for additional information.