ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT LAND DIVISION - UNIFORM ENVIRONMENTAL COVENANTS PROGRAM ADMINISTRATIVE CODE

CHAPTER 335-5-5 ENFORCEMENT

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335-5-5-.01 Enforcement Of Covenants.

(1) Pursuant to Code of Ala. 1975, §22-22A-5, ADEM may pursue enforcement action for violation of an environmental covenant established under 335-5.

(2) A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by any of the following parties or entities:

(a) A party to the covenant.

(b) The Department.

(c) Any person to whom the covenant expressly grants power to enforce.

(d) A person whose collateral, liability, or interest in the real property may be affected by the alleged violation of the covenant.

(e) A municipality or other unit of local government in which the real property subject to the covenant is located.

(3) A person is not responsible for or subject to liability for environmental remediation solely because that person has the right to enforce an environmental covenant.
Author: James L. Bryant; Lawrence A. Norris
Statutory Authority: Code of Ala. 1975, §§35-19-11; 35-19-13.
History: New Rule: Filed April 21, 2009; effective May 26, 2009.

335-5-5-.02 Duties Of The Department.

(1) The Department is designated as the administrating agency for the Act and 335-5 and is authorized to administer and enforce the

Act and these regulations through the authorities granted to it by the Environmental Management Act, Code of Ala. 1975, §§22-22A-1, et seq.

(2) The designation provided in subsection (1) does not imply that the Department shall assume any administration or enforcement functions other than those directly related to the environmental covenant.

(3) With respect to an environmental response project, the Act does not limit the regulatory authority of the Department under other law.

Author: James L. Bryant; Lawrence A. Norris
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