

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on Friday, December 8, 2023, and filed with the agency secretary on Friday, December 8, 2023.

AGENCY NAME: Alabama Department of Environmental Management Land Divisions - Uniform Environmental Covenants Program

INTENDED ACTION: Amend

RULE NO.: 335-5-1-.07

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

RULE TITLE: Process For Entering A Covenant

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted without changes

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLI, ISSUE NO. 11, AAM,
DATED THURSDAY, AUGUST 31, 2023.

STATUTORY RULEMAKING AUTHORITY:

Ala. Code §§ 22- 22A- 5, 22- 22-A 6,
22- 22A-8, 22 -28 -14, (as amended)
and Ala. Code §§ 41-22-4 and 41-22-5
(as amended)

REC'D & FILED
(Date Filed)
(For LRS Use Only)
DEC 11, 2023
LEGISLATIVE SVC AGENCY

marilyn elliott

Marilyn Elliott

Certifying Officer or his or her
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

335-5-1-.07 Process For Entering A Covenant.

(1) The owner or operator, the other responsible person or the person conducting an environmental response project may use land use control in lieu of remediating the property to a level supporting unrestricted use. The ADEM organizational unit under which the response action is being conducted shall approve the environmental response project plan which proposes a land use control.

(2) For properties not remediated to a level supporting unrestricted use, an environmental covenant is required in accordance with 335-5-1-.02. To enter an environmental covenant, the owner or operator, the other responsible person or the person conducting an environmental response project shall submit the following to the ADEM organizational unit under which the response action is being conducted:

(a) A draft of the proposed environmental covenant.

(b) The applicable fees in Fee Schedule J of 335-1-6 and 335-5-1-.06.

(c) All pertinent information required in 335-5-2-.01(1).

(3) ADEM shall review and approve the draft covenant or request modifications. If requesting modifications to the draft covenant, ADEM shall provide the applicant with its reasons for requesting change. Upon submittal by the applicant of acceptable modifications, ADEM shall approve the draft covenant.

(4) Within 30 days of ADEM's approval of the draft covenant, the applicant shall submit one copy of the final covenant signed by the Grantee, which complies with 335-5-2 for execution by the Director or his designee. Upon execution by the Department, the signed copy shall be returned to the applicant.

(5) Upon receiving the executed copy of the covenant from ADEM, the applicant shall have the covenant or an ADEM approved recording instrument, as described in 335-5-3-.02(3), recorded in the land records of the county where the site is located, in compliance with 335-5-3-.02.

(6) Documentation of the recorded covenant or the ADEM approved recording instrument shall be submitted to ADEM within 30 days of recording in compliance with 335-5-3-.02.

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Statutory Authority: Code of Ala. 1975, §§35-19-3; 35-19-13.

History: New Rule: Filed April 21, 2009; effective May 26, 2009. **Amended:** Filed February 19, 2013; effective March 26, 2013. **Amended:** Filed August 20, 2019; effective October 4, 2019. **Amended:** Published December 29, 2023; effective February 12, 2024.