ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION
ADMINISTRATIVE CODE

CHAPTER 335-15-4
TECHNICAL INFORMATION

335-15-4-.06 Certificate Of Compliance-Letter Of Concurrence.

(1) Certification of Compliance. When all requirements of an approved cleanup plan have been completed, the applicant shall submit to the Department a Certification of Compliance. A Certification of Compliance may also be submitted when an assessment based on an approved Voluntary Property Assessment Plan has been completed and no contamination discovered. The Department shall review all reports and the required Certification of Compliance submitted under 335-15-4-.06. The applicant or eligible successor must satisfactorily maintain the engineering controls, remediation systems, or if non-permanent institutional controls are utilized pursuant to an agreement, the Department may issue the applicant a "Letter of Concurrence" with conditions. The Department may authorize an applicant to conduct a phased response only when, in the Department's evaluation, the schedule is reasonable.

(2) "Letter of Concurrence". Upon concurrence by the Department, the Department shall issue to the applicant "Letter of Concurrence".

(3) "Letter of Concurrence with Conditions". For partial response actions, a "Letter of Concurrence" with conditions shall pertain only to the partial response action area and shall include a legal description of that area.

(4) Deed Records. The applicant shall comply with the requirements of 335-5.

(5) Revocation. The "Letter of Concurrence" may be revoked by the Department in the event that contamination posing an unacceptable risk to human health and the environment is discovered on site, or discovery is made that the submitted certification of compliance was based on information that was materially false, inaccurate or misleading.

(a) The applicant shall be notified in writing by certified mail of the proposed revocation.

(b) The applicant shall be given an opportunity to respond within 30 days upon receipt of the letter.

(c) Unacceptable response to the revocation letter will result in the reinstatement of any cleared deed notation and/or deed restriction until such time as the property is deemed to be in compliance.

(6) Sovereign Immunity. Issuance of the "Letter of Concurrence" does not constitute a waiver of sovereign immunity.

(7) Release from Liability. Upon the first to occur of the Department's approval of a Voluntary Property Assessment Plan, approval of a Voluntary Cleanup Plan, or concurrence with the submitted Certification of Compliance described in 335-15-4-.06, an applicant who is a non-responsible person or a responsible person applicant, as defined in 335-15-1-.02, at the qualifying property, shall not be liable to the state or any other person, including any successor in interest to the applicant with respect to the qualifying property, for costs incurred in the investigation or cleanup of, or equitable relief relating to, or damages resultant from, in whole or in part, a preexisting release at the qualifying property, including, but not limited to, any liability to the state for the cleanup of the property under Title 22, Chapters 22, 27, 30, 30A, and 35 of the Code of Alabama 1975, or a new release of a substance, constituent, or material which had been part of a preexisting release at the property, unless such new release results from noncompliance with an approved Voluntary Property Assessment Plan or Voluntary Cleanup Plan or from the negligent, wanton, willful, or intentional conduct of the applicant.

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