

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management  
Rule No. 335-6-15-.28  
Rule Title: Secondary Investigation Requirements

         New      X   Amend             Repeal             Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?          YES

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?          YES

Is there another, less restrictive method of regulation available that could adequately protect the public?          NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?          NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?          NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?          YES

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Does the proposed rule have an economic impact?          NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer         Marilyn Elliott        

Date         July 20, 2017        



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Environmental Management

RULE NO. & TITLE: 335-6-15-.02 Definitions  
335-6-15-.03 Applicability  
335-6-15-.04 Installation Requirements for Partially Excluded Systems  
335-6-15-.05 Notification Requirements  
335-6-15-.06 Performance Standards for New UST Systems and Dispensers  
335-6-15-.07 Upgrading of Existing UST Systems  
335-6-15-.08 Plans and Specifications  
335-6-15-.09 Operation, Maintenance, and Testing or Inspection of Spill and Overfill Prevention Equipment and Containment Systems; and Walkthrough Inspections  
335-6-15-.10 Operation and Maintenance of Corrosion Protection  
335-6-15-.11 Compatibility  
335-6-15-.12 Repairs Allowed  
335-6-15-.13 Reporting and Recordkeeping  
335-6-15-.14 General Release Detection Requirements for All UST Systems  
335-6-15-.15 Release Detection Requirements for Petroleum UST Systems  
335-6-15-.16 Release Detection Requirements for Hazardous Substance UST Systems  
335-6-15-.17 Methods of Release Detection for Underground Storage Tanks  
335-6-15-.18 Methods of Release Detection for Underground Piping  
335-6-15-.19 Release Detection Recordkeeping  
335-6-15-.20 Reporting of Suspected Releases  
335-6-15-.22 Release Investigation and Confirmation Steps  
335-6-15-.24 Initial Release Response  
335-6-15-.25 Initial Abatement Measures and Preliminary Investigation  
335-6-15-.26 Preliminary Investigation Requirements  
335-6-15-.27 Free Product Removal  
335-6-15-.28 Secondary Investigation Requirements  
335-6-15-.29 Corrective Action Plan  
335-6-15-.30 Corrective Action Requirements  
335-6-15-.31 Public Participation  
335-6-15-.32 Analytical Requirements  
335-6-15-.33 Temporary Closure  
335-6-15-.35 Site Closure or Change-In-Service Assessment  
335-6-15-.37 Closure Records  
335\*6-15-.39 Availability to Public of Records, Reports or Information  
335-6-15-.42 Underground Storage Tank Regulation Fee  
335-6-15-.43 Financial Responsibility for Petroleum UST Owners and Operators  
335-6-15-.45 Delivery Prohibition  
335-6-15-.46 Operator Training

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
LAND DIVISION

NOTICE OF INTENDED ACTION

RULE NO. & TITLE:

335-6-15-.47 Certification Requirements for Individuals Who Supervise Installation,  
Closure, and Repair of UST Systems  
335-6-15-.48 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel  
Distribution Systems  
335-6-15-.49 Severability

INTENDED ACTION: Amend Chapter 335-6-15 of the ADEM Administrative Code

SUBSTANCE OF PROPOSED ACTION:

The Department of Environmental Management proposes to amend portions of the Division 6 Underground Storage Tanks Program Regulations to make typographical and grammatical corrections, to make clarifications necessary to maintain consistency with analogous federal rules, and to adopt new amendments required by the USEPA which are necessary to maintain the programs fully authorized status.

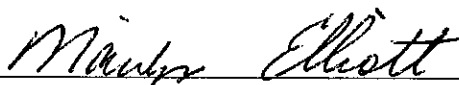
TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held Wednesday, August 9, 2017 at 10:00 a.m. in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Blvd, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

September 6, 2017

CONTACT PERSON AT AGENCY: Sonja Massey, Chief of the Groundwater Branch, ADEM Land Division, (334) 271-7832.

  
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Lance R. LePleur  
Director

**335-6-15-.28 Secondary Investigation Requirements.**

(1) When required in order to determine the full lateral and vertical extent and location of: soils contaminated by the release; the presence of free product; and the presence and concentrations of dissolved product contamination in the groundwater, the Department may require owners and operators to conduct a secondary investigation of the release site. This investigation must include the surrounding area possibly affected by the release if any of the following conditions exist:

(a) There is evidence that groundwater wells have been affected by the release (e.g., as found during release confirmation or previous corrective action measures);

(b) Free product is found to need recovery in compliance with rule 335-6-15-.27;

(c) There is evidence that contaminated soils may be in contact with groundwater (e.g., as found during conduct of the initial response measures or investigations required under rules 335-6-15-.24 through 335-6-15-.26); and

(d) The Department requests an investigation, based on the potential effects of contaminated soil or groundwater on nearby surface water and groundwater resources.

(2) The investigations required by paragraph (1) of this rule shall:

(a) Be sufficient to define the full lateral and vertical extent of soil and groundwater contamination;

(b) Determine the rate and direction of pollutant and groundwater migration through the use of piezometers and/or monitoring wells;

(c) Include results of groundwater sampling and analysis from monitoring wells at one background and a minimum of three down-gradient locations. The location of the down-gradient wells should take into consideration the direction of groundwater flow and should be placed so as to define the plume of contamination and the outer limits of the plume of contamination;

(d) Include a determination of the uppermost aquifer and an initial evaluation of the potential for hydraulic interconnection with lower aquifers. This evaluation may be made based upon the results of site soil sampling and borings and available literature data but may also require installation of wells into underlying aquifers. If this becomes necessary proper well construction techniques must be used to ensure that wells do not serve as conduits for contamination of underlying aquifers;

(e) Include analytical results for soil and groundwater samples for parameters which are appropriate to the nature of the stored substance and according to methods specified in rule 335-6-15-.32; and

(f) Provide sufficient information for the selection and design of appropriate corrective actions.

(3) The Department may require additional sampling and analyses to be performed if it is determined that the number or location of samples, or methods used in the analysis of such samples, are not sufficient to define the full lateral and vertical extent of soil and groundwater contamination.

(4) Owners and operators must submit a plan of study sufficient to accomplish the objective of paragraphs (1) and (2) of this rule together with a schedule of implementation. The owners and operators shall make any modifications to the plan of study deemed necessary by the Department.

(5) The plan of study must contain construction details for monitoring wells. Monitoring wells must be constructed in a manner acceptable to the Department or the Department may require them to be properly closed. Except where cross-contamination of aquifers is of concern, general construction details for monitoring wells should conform to the requirements of rule 335-6-15-.17(f)6. through 8., and 10. through 14. and 20. The Department may require modification of proposed construction details.

(6) Owners and operators must submit the information collected under paragraphs (1) through (3) of this rule within the schedule submitted in paragraph (4) above of this rule or in accordance with a schedule established by the Department.

(7) The secondary site investigation must be performed in accordance with accepted geologic practices by a licensed professional geologist or registered professional engineer experienced in hydrogeologic investigations.

**Author:** Sonja Massey, Curt Johnson, Lee Davis.

**Statutory Authority:** Code of Alabama 1975, § 22-36-3.

**History:** April 5, 1989.

**Amended:** October 2, 2003; August 6, 2007; XXXXXX, 2017.