

APA-1  
07/04

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management  
Rule No. 335-6-15-.30  
Rule Title: Corrective Action 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         Nancy 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

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07/04

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.

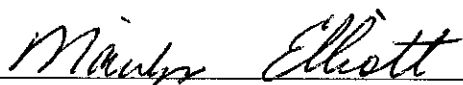
TIME, PLACE, MANNER OF PRESENTING VIEWS:

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-.30 Corrective Action Requirements.** The following requirements shall apply when establishing risk based corrective action limits applicable to the cleanup of soil and ~~ground-water~~ groundwater contamination resulting from releases from underground storage tanks regulated under this chapter.

(a) A risk based corrective action process will be used to establish site specific corrective action limits protective of human health and the environment. Corrective action limits, institutional controls, or a combination thereof, shall be adequate to support onsite and surrounding property use consistent with existing and reasonable future use and achieve and maintain compliance with all applicable environmental standards for air, soil and waters of the state of Alabama. The only exception to the use of a risk based corrective action process shall be that as described in rule 335-6-15-.30(f).

(b) Free product shall be removed to the maximum extent practicable.

(c) A risk based corrective action process requires the specification of a target risk level for carcinogenic effects. The estimated individual excess lifetime cancer risk (IELCR) will be:

1. For constituents resulting from releases of petroleum or petroleum-based regulated substances, as regulated under this chapter, the estimated IELCR level used to establish site specific corrective action limits shall be  $10^{-5}$ , for all constituents of concern, for each exposure pathway. If corrective action to a  $10^{-5}$  risk level is determined by the Department to be infeasible, and in the determination of the Department, appropriate institutional controls are implemented, the Department may approve a site-specific corrective action limit that represents a risk level equal to but not greater than  $10^{-4}$ ; and

2. For constituents resulting from releases of non-petroleum regulated substances, as regulated under this chapter, the estimated IELCR used to establish site specific corrective action limits shall be no less than  $10^{-6}$  and no greater than  $10^{-5}$ . If corrective action to a  $10^{-6}$  to  $10^{-5}$  risk level is determined by the Department to be infeasible, and in the determination of the ~~the~~ Department, appropriate institutional controls are implemented, the Department may approve a site specific corrective action limit that represents a risk level equal to but not greater than  $10^{-4}$ .

(d) For non-carcinogenic substances, a hazard quotient of one will be used.

(e) For the ~~ground-water~~ groundwater ingestion pathway, for constituents for which a Maximum Contaminant Level, MCL, has been established, the corrective action limit shall be set equal to the MCL. For carcinogenic constituents for which a Maximum Contaminant Level has not been established, the estimated IELCR shall be  $10^{-6}$ .

(f) For hydrogeologic settings, where the models used in the risk based evaluations are considered in the determination of the Department, not to be representative of, and thus not protective of, a given hydrogeologic setting, the

Department may require implementation of a corrective action plan to continue until the concentration of dissolved contaminants has leveled off. Leveling off shall mean that the graph of the contaminant concentration versus time fits a curve generally defined by the equation  $C = C_f + C_0e^{-kt}$ , and the slope of the final portion of the curve approaches zero. Alternatively, the Department may approve the use of a statistical method for use in demonstrating that contaminant concentrations are no longer decreasing with continued corrective action. An indicator parameter satisfactory to the Department shall be selected for application to the curve. In the equation above, the symbols are defined as follows:

1. C - contaminant concentration at time t;
2.  $C_f$  - the final concentration which the curve approaches asymptotically;
3.  $C_0$  - the concentration difference between the final concentration and the concentration at time zero;
4. e - 2.718, the base of natural logarithms;
5. k - an exponential factor which indicates how fast the concentration approaches  $C_f$ ; and
6. t - time in days from some fixed starting point.

(g) Corrective action limits, institutional controls, or a combination thereof, shall be developed and submitted for approval by the Department, using a format, procedures, and within a schedule acceptable to the Department.

(h) Corrective action, institutional controls, or a combination thereof, shall be implemented, where necessary, to meet the objectives of this rule, within a schedule acceptable to the Department.

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

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

**History:** April 5, 1989. Repealed: August 28, 2003, Readopted: October 2, 2003; XXXXXX, 2017.