

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 335 Department or Agency Environmental Management
Rule No. 335-6-15-.45
Rule Title: Delivery Prohibition

 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

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.

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.

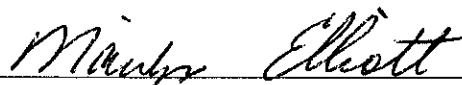
TIME, PLACE, MANNER OF PRESENTING VIEWS:

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.



Lance R. LeFleur
Director

335-6-15-.45 Delivery Prohibition. The Department will implement Delivery Prohibition in accordance with the following procedures:

(a) Prior to placing an underground storage tank facility under delivery prohibition, the Department will:

1. Make a reasonable effort to notify the owner and/or operator in writing that an underground storage tank facility is in "significant noncompliance requiring delivery prohibition" as defined in rule 335-6-15-.02(~~hhhuuu~~), or "significant noncompliance subject to delivery prohibition" as defined in rule 335-6-15-.02(~~iiivvv~~); and

2. Give the owner or operator the opportunity to discuss, within a designated time period specified by the Department, the significant noncompliance.

(b) If the above time period expires without resolution of the significant noncompliance, the underground storage tank facility will be placed on the Department web site "Delivery Prohibition List" by 12:00 a.m. central time on Wednesday of the week that a delivery prohibition determination is made by the Department. The Department will physically affix a red tag on the fill pipes to underground storage tanks at the underground storage tank facility. The delivery prohibition becomes effective immediately to all UST systems at the facility upon placement of the red tag(s). Once the red tag is affixed on the fill pipe, it shall be unlawful to tamper with or remove it until authorized by the Department.

(c) Upon implementation of delivery prohibition as described in subparagraph (b) above, it shall be unlawful for any regulated substance deliverer to deliver a regulated substance, and it shall be unlawful for owners and operators of UST systems to accept delivery of a regulated substance to an underground storage tank facility that is under delivery prohibition.

(d) When the Department has received all documentation required by the Department to demonstrate that the underground storage tank facility has returned to compliance:

1. The underground storage tank facility will become eligible to receive delivery of regulated substances following written notification by the Department. Written notification may be provided electronically or by facsimile; and

2. The Department shall remove the underground storage tank facility from the Department web site "Delivery Prohibition List" as soon as practicable after receipt of the necessary documentation.

(e) Based on the best interest of the public, the Department may defer the implementation of delivery prohibition for up to 180 days for underground storage tank facilities identified as being in significant noncompliance requiring delivery prohibition. Also, the Department retains the right to remove any delivery prohibition at any time during an emergency situation.

Author: Sonja Massey, Curt Johnson, Lee Davis.

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

History: April 25, 2008.

Amended: November 24, 2009; January 16, 2012; April 1, 2014; XXXXXX, 2017.