

APA-1  
07/04

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control No. 335 Department or Agency Environmental Management  
Rule No. 335-6-15-.47  
Rule Title: Certification Requirements for Individuals Who Supervise  
Installation, Closure, and Repair of UST Systems

         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         Mandy 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.

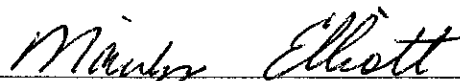
TIME, PLACE, MANNER OF PRESENTING VIEWS:

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. LeFleur  
Director

**335-6-15-.47 Certification Requirements for Individuals Who Supervise Installation, Closure, and Repair of UST Systems.**

(1) No later than July 16, 2012, individuals who exercise supervisory control with regard to performing installation, closure, and repair of UST systems must be certified by a Department approved certifying organization as described in paragraph (2) of this rule. Exceptions to this certification requirement are: adding or inspecting internal linings in accordance with rule 335-6-15-.12(a) and (b); repair of fiberglass-reinforced plastic underground storage tanks by the manufacturer's authorized representative in accordance with rule 335-6-15-.12(b); installation of cathodic protection systems in accordance with rule 335-6-15-.06(a) and (b) or repair of cathodic protection systems in accordance with rule 335-6-15-.12(a); repair or installation of underground storage tank and/or underground piping leak detection equipment by technicians trained by the manufacturer of the equipment; and routine maintenance.

(a) Minimum Requirements. To be recognized by the Department as certified to exercise supervisory control with regard to performing installation, closure, and repair of UST systems in Alabama, an individual must:

1. Be at least 18 years of age and have a photo ID issued by the United States government, or a state or territory of the United States with date of birth, to allow the Department or a Department approved certifying organization to verify age and identity;

2. Immediately prior to pursuing certification, have documentation of three jobs in the last three year period that can be verified by the Department or a Department Approved Certifying Organization in which the individual was involved in installation, closure, or repair of UST systems; and for jobs after July 16, 2012, if applicable in the state or territory where the job experience was acquired, documentation of the name of the certified individual who supervised the installation, closure, or repair of UST systems;

3. Have proof of individual financial responsibility or employer's financial responsibility as follows:

(i) Individual financial responsibility or employer's financial responsibility in the amount of \$1,000,000 of general liability insurance coverage and \$1,000,000 of pollution financial responsibility that can be verified by the Department or a Department Approved Certifying Organization;

(ii) For Owners installing, closing, or repairing their own UST systems containing motor fuels, using the definition of motor fuel in chapter 335-6-16, the required financial responsibility shall be \$1,000,000 of general liability insurance coverage and \$1,000,000 of pollution financial responsibility coverage. The requirement for pollution financial responsibility may be satisfied by the Alabama Underground and Aboveground Storage Tank Trust Fund if the following conditions are met:

(I) Prior to installation, closure or repair of a UST system, the Department has been notified of the proposed installation or existence of the UST system,

(II) Prior to installation, closure or repair of a UST system, the UST Regulation Fee and any applicable Alabama Underground and Aboveground Storage Tank Trust Fund Fee has been paid,

(III) The Owner has established substantial compliance as defined in chapter 335-6-16,

(IV) The Owner or an Owner's employee has received certification in accordance with rule 335-6-15-.47 prior to installation, closure and repair of a UST system and exercises supervisory control during installation, closure and repair critical junctures.

4. Attend and complete a course with classroom instruction on installation, closure, and repair of UST systems from a Department approved certifying organization;

5. Pass an exam or exams on installation, closure, and repair of UST systems administered by a Department approved certifying organization;

6. Be issued an identification card by a Department approved certifying organization with the name and photo of the individual, and date of certification;

7. Be identified by a Department approved certifying organization as an individual who is certified to exercise supervisory control with regard to performing installation, closure and repair of UST systems in the state of Alabama; and,

(b) Grandfathering. Beginning January 16, 2012 through July 16, 2012 all those individuals who are currently certified as having successfully completed an UST system installation, closure, and repair certification program in the State of Alabama will be considered to have met the requirements for installation, closure and repair of UST systems under this rule upon demonstration of the following:

1. Provide proof of successful completion of a UST system installation, closure, and repair certification program approved by the Department prior to January 16, 2012;

2. Meet the requirements of subparagraphs (1)(a)1. through 3., 6. through 7. of this rule; and

3. Apply to a Department approved certifying organization for certification to exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule no later than July 16, 2012.

Those individuals that are not certified by this date, must meet all the requirements of subparagraph (1)(a) of this rule to become certified under this rule.

(c) Reciprocity. Beginning January 16, 2012 all those individuals who have successfully been certified to exercise supervisory control with regard to performing installation, closure and repair of UST systems in another state or territory other than Alabama with a state-approved certification program approved by the other state or territory, may apply to become certified under this rule by a Department approved certifying organization as follows:

1. Meet the requirements of subparagraphs (1)(a)1. through 3., and 5. through 7. of this rule.

(d) Recertification. Certification to exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule expires three years after issuance by the Department approved certifying organization. Therefore, an individual must be recertified every three years by a Department approved certifying organization to maintain certification as follows:

1. Certified individuals must provide the following information to the Department approved certifying organization a minimum of one month prior to expiration;

(i) Proof of certification from a Department approved certifying organization for the previous three year period,

(ii) Verification of 16 hours of online or classroom continuing education related to installation, closure, or repair of UST systems that occurred within the three year recertification period prior to the certification expiration date, and

(iii) Provide the information described in subparagraph (1)(a)3. of this rule to the Department approved certifying organization.

2. If a certified individual is not recertified within 90 days or another time period approved by the Department after expiration of their certification, the individual can only become certified in accordance with the requirements in subparagraph (1)(a) of this rule. An individual whose certification has expired may not exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule.

(e) Responsibilities. A certified individual shall:

1. Exercise supervisory control during installation, closure and repair of UST systems in accordance with the requirements of this chapter;

2. Be present at the job site during the following installation critical junctures;

(i) Excavation immediately prior to underground storage tank and underground piping installation and during backfill and compaction,

(ii) After excavation and prior to setting underground storage tank and underground piping,

(iii) Setting of the UST and underground piping,

(iv) Connection of underground piping and UST system components,

(v) Installation of UST system restraining devices, and

(vi) Tightness testing of the UST system during installation.

3. Be present at the job site during the following closure critical junctures;

(i) De-vaporization, inerting, and cleaning of the underground storage tank,

(ii) Testing atmosphere in and around the underground storage tanks,

(iii) Excavation of material around the underground storage tank and underground piping,

(iv) Removal of the underground storage tank and underground piping from the excavation and job site,

(v) Cutting or destroying the underground storage tank if done on site, and

(vi) When closing in place, filling the underground storage tanks with an inert material.

4. Be present at the job site during the following repair critical junctures;

(i) Excavation of any material from around the area of the underground storage tanks, underground piping, sumps, under dispenser containment, or spill catchment basins necessary to make a repair,

(ii) Repair or alteration of the UST system,

(iii) Repair, alteration or replacement of underground piping or sumps, and

(iv) Cutting the top of an underground storage tank and welding manhole to an underground storage tank.

5. Upon request by a Department representative, provide proof of installation, closure, and repair certification from a Department Approved Certifying Organization.

6. Report any suspected releases or unusual operating conditions observed by the certified individual or by someone under his supervisory control at a UST facility where work is being performed or in the immediate surrounding area in accordance with rule 335-6-15-.20.

7. Prior to beginning an installation or upgrade, ensure that a notice of proposed installation modification, or upgrade has been submitted to the Department in accordance with rules 335-6-15-.08(1)(b) and 335-6-15-.05(5).

8. Prior to beginning a closure, ensure that a notice of intent to permanently close has been submitted to the Department in accordance with rule 335-6-15-.34.

(f) Revocation of Certification. An individual's certification to exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule may not be recognized by the Department or may be revoked by a Department approved certifying organization.

1. Revocation can occur for the following reasons, and for any other reasons deemed appropriate by the Department;

(i) Gross negligence,

(ii) Fraud or deception,

(iii) Failure to correct deficiencies in workmanship,

(iv) Failure to comply with the certified individual's responsibilities in subparagraph (1)(e) of this rule, and

(v) Performing installation, closure, or repair activities without employer financial responsibility required by subparagraph (1)(a)3. of this rule.

(vi) Failure to comply with the financial responsibility requirements in subparagraph (1)(a)3. of this rule.

2. After revocation of certification by the certifying organization for the reasons indicated in subparagraph (1)(f) 1. (i) through (v) above of this rule, the Department may allow the individual to pursue certification to exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule in accordance with paragraph (1)(a) of this rule. Recertification of an individual after revocation by the certifying organization under for item subparagraph (1)(f) 1. (vi) above of this rule requires the individual to meet the requirements of subparagraphs (1)(a)3. and 7. of this rule.



(2) Department Approved Certifying Organization. The Department may approve a person, as defined in rule 335-6-15-.02(vvddd) who is not regulated under this chapter, as a certifying organization with the authority to certify and recertify individuals to exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule in accordance with paragraph (1) of this rule. The Department approved certifying organization has the authority to revoke certifications issued by them in accordance with subparagraph (1)(f) of this rule.

(a) Approval Process. To be approved by the Department as a certifying organization, the person must, as a minimum, be able to perform the following:

1. Verify the identity, age, experience, and insurance of all individuals taking the certification course using the information required by subparagraphs (1)(a)-1. through 3. of this rule.

2. Provide a course with classroom instruction by a qualified instructor on the installation, closure, and repair of UST systems that cover, as a minimum, the following topics;

- (i) Installation, closure and repair requirements of this chapter.
- (ii) Installation preparation and underground storage tank handling,
- (iii) Pre-installation and post installation testing,
- (iv) Installation and closure excavation,
- (v) Anchoring,
- (vi) Backfilling,
- (vii) Spill and overflow prevention,
- (viii) Leak detection methods for underground storage tanks and underground piping,
- (ix) Corrosion protection,
- (x) Underground piping,
- (xi) Electrical,
- (xii) Underground storage tank and/or underground piping removal,
- (xiii) Filling underground storage tanks with inert material,
- (xiv) Cleaning, purging and inerting underground storage tanks,

- (xv) Sampling,
- (xvi) Repairing of underground storage tanks, underground piping, and sumps,
- (xvii) Post repair tightness testing,
- (xviii) Applicable United States Department of Labor Occupational Safety and Health Administration (OSHA) requirements,
- (xix) Applicable National Fire Protection Association (NFPA) requirements,
- (xx) Information contained in the most current versions of Petroleum Equipment Institute (PEI) Recommended Practice RP100, and American Petroleum Institute (API) Recommended Practice 1604, 1615 and 2015<sub>7</sub>.

3. Provide a written or oral exam on installation, closure, and repair of UST systems, which is approved by the Department, that requires at least a grade of 75% to pass and keep documentation of the test results for all individuals taking the test for a period of 6six years.

4. After the individual has successfully completed all of the requirements in either subparagraphs (1)(a), (1)(b), (1)(c), or (1)(d) of this rule and, when applicable, passed the testsexams described in subparagraph (1)(a)5. Above of this rule, issue an identification card to the individual with the individual's name and photo, date of certification, and certifying organization.

5. Certify individuals to exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule in accordance with subparagraphs (1)(a), (1)(b), and (1)(c), of this rule, and recertify individuals in accordance with subparagraph (1)(d) of this rule.

6. Revoke certification of an individual to exercise supervisory control with regard to performing installation, closure, and repair of UST systems, in accordance with subparagraph (1)(f) of this rule.

7. Identify individuals who are certified and recertified to exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule and their date of certification or recertification on an active website, and keep the list up-to-date within a 7seven day time period.

(3) Audits of Department Approved Certifying Organizations. Department approved certifying organizations will be subject to audits by the Department. The results of the audits will be to sustain, suspend, or revoke, approval.

(a) Sustained Approval. The Department may sustain the authorization of a certifying organization to certify individuals under this rule if the audit does not uncover any of the problems indicated in subparagraphs

(3)(c)1.(i) through (iv) below of this rule, or any other problems deemed appropriate by the Department.

(b) Suspended Approval. The Department may suspend the authorization of a certifying organization to certify individuals under this rule if the audit uncovers any of the problems indicated in subparagraphs (3)(c)1.(i) through (iv) below of this rule, or any other problems deemed appropriate by the Department;

1. When approval is suspended by the Department, the certifying organization will be notified of the problem(s) that need to be addressed. Once the certifying organization has resolved all the problems, the Department will reinstate approval of the certifying organization.

(c) Revoked Approval.——— The Department may suspend or revoke the authorization of a certifying organization to certify individuals under this rule;

1. Revocation may occur for the following reasons and for any other reasons deemed appropriate by the Department;

(i) Fraud or deception,

(ii) Incompetence or inability to perform responsibilities,

(iii) Failure to update course information and exam questions in response to additions and revisions made to this chapter, and

(iv) Failure to comply with any of the requirements under paragraph (2) of this rule.

2. When approval is revoked by the Department, the principals of the certifying organization will no longer be eligible to obtain Department approval as a certifying organization for two years.

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

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

**History:** January 16, 2012; ~~April 1, 2014.~~

**Amended:** April 1, 2014; XXXXXX, 2017.