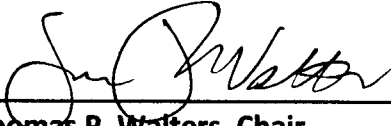


**4/12/22**

**Minutes  
Environmental Management Commission Meeting  
Alabama Department of Environmental Management Building  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2400  
February 11, 2022**

**This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Alabama Environmental Management Commission on February 11, 2022.**

A handwritten signature in black ink, appearing to read "Tom Walters", written over a horizontal line.

**Thomas P. Walters, Chair  
Alabama Environmental Management Commission**

**Certified this 8th day of April 2022.**

**Minutes  
Environmental Management Commission Meeting  
Alabama Department of Environmental Management Building  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2400  
February 11, 2022**

**Convened: 11:03 a.m.  
Adjourned: 11:45 a.m.**

**Part A**

**Transcript  
Word Index**

**Part B**

**Attachment Index  
Attachment 1  
Attachment 2  
Attachment 3  
Attachment 4  
Attachment 5  
Attachment 6**

**Part A**

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
**Commission Meeting on 02/11/2022**

1 ALABAMA ENVIRONMENTAL MANAGEMENT

2 COMMISSION MEETING

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11 ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

12 Alabama Room (Main Conference Room)

13 1400 Coliseum Boulevard

14 Montgomery, Alabama 36110-2400

15 February 11, 2022

16 11:03 a.m.

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25 Taken by: Victoria M. Castillo, ACCR No. 17

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
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<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 COMMISSION MEMBERS PRESENT:</p> <p>4 H. Lanier Brown, II, Esq.</p> <p>5 John (Jay) H. Masingill, III, Vice Chair</p> <p>6 Kevin McKinstry</p> <p>7 Mary J. Merritt</p> <p>8 Samuel L. Miller, M.D.</p> <p>9 Ruby L. Perry, D.V.M.</p> <p>10 Thomas P. Walters, P.E., Chair</p> <p>11</p> <p>12</p> <p>13 ALSO PRESENT:</p> <p>14 Robert D. Tambling, AEMC Legal Counsel</p> <p>15 Debi Thomas, AEMC Executive Assistant</p> <p>16 Lance R. LeFleur, ADEM Director</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 So, Lance.</p> <p>2 MR. LeFLEUR: I am here and good</p> <p>3 morning to everybody. My apologies for giving</p> <p>4 this report remotely, but I was exposed to</p> <p>5 someone who tested positive for COVID so I</p> <p>6 thought you-all would probably prefer this to be</p> <p>7 remote rather than in person. But, good morning</p> <p>8 to everybody and to the others in the room who</p> <p>9 are joining me.</p> <p>10 This is the third meeting of the</p> <p>11 Environmental Management Commission for fiscal</p> <p>12 year '22. Today's report will focus on the</p> <p>13 latest developments regarding a number of current</p> <p>14 issues important to the Department. First will</p> <p>15 be an update on several internal ADEM initiatives</p> <p>16 involving our FY '23 General Fund budget, the</p> <p>17 Mobile Field Office, our major software systems</p> <p>18 upgrade, a review of our telework program, and an</p> <p>19 update to our beneficial use rules.</p> <p>20 Next, I will report on recent</p> <p>21 extraordinary federal funding for drinking water</p> <p>22 and wastewater infrastructure and how it affects</p> <p>23 the Department. And we will have some new</p> <p>24 information on the progress EPA is making in the</p> <p>25 cleanup of certain properties in the North</p>
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<p>1 (Proceedings began at</p> <p>2 11:03 a.m.)</p> <p>3 MR. WALTERS: We will call this</p> <p>4 meeting to order. This is the meeting of the</p> <p>5 Alabama Environmental Management Commission. We</p> <p>6 do have a quorum. And our first item is the</p> <p>7 consideration of the minutes of the meeting that</p> <p>8 we held on December 10th, 2021.</p> <p>9 I will entertain a motion by the</p> <p>10 Commission regarding the minutes.</p> <p>11 MR. BROWN: Move to approve.</p> <p>12 DR. PERRY: Second.</p> <p>13 MR. WALTERS: I have a motion to</p> <p>14 approve and a second.</p> <p>15 Any further discussion?</p> <p>16 (No response.)</p> <p>17 MR. WALTERS: All those in favor</p> <p>18 of approving the minutes of December 10th, 2021,</p> <p>19 signify by saying "aye."</p> <p>20 (All Commissioners affirm.)</p> <p>21 MR. WALTERS: Any opposed?</p> <p>22 (No response.)</p> <p>23 MR. WALTERS: Motion carries.</p> <p>24 Agenda item number two is the report</p> <p>25 from our Director, who is on the phone today.</p>	<p>1 Birmingham 35th Avenue area that I will share</p> <p>2 with you.</p> <p>3 Finally, I will review the current</p> <p>4 situation with two environmental contaminants of</p> <p>5 national importance -- Coal Combustion Residuals</p> <p>6 and per- and polyfluoroalkyl substances, or PFAS.</p> <p>7 That's a lot to cover.</p> <p>8 Jason, would you click the first</p> <p>9 slide up there?</p> <p>10 All right. We will begin with the</p> <p>11 Department's fiscal year '23 budget.</p> <p>12 Jason, can you go to the next slide?</p> <p>13 ADEM has three sources of funding:</p> <p>14 Fees from regulated industries, about 54 percent</p> <p>15 of our budget; federal funding through EPA, about</p> <p>16 40 percent of our budget; and the Alabama General</p> <p>17 Fund, about 6 percent of our budget.</p> <p>18 The regulated industry fee schedule</p> <p>19 has been the same since 2016. Federal funding</p> <p>20 has been roughly the same since 2010, but there</p> <p>21 may be a small increase in fiscal year 2023.</p> <p>22 They have not adopted the '22 budget yet so '23</p> <p>23 is still out there.</p> <p>24 The Department has received a</p> <p>25 General Fund appropriation of \$4 million per year</p>

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<p>1 for the last three years, and the Governor's 2 proposed FY '23 General Fund budget submitted to 3 the Alabama Legislature maintains the \$4 million 4 appropriation.</p> <p>5 The Governor's proposed budget also 6 includes a one-time supplemental appropriation 7 requested by the Department to defer part of the 8 increased cost of the Mobile Field Office due to 9 inflation during the 11-year process to close out 10 the RESTORE Act funding. More about the Mobile 11 Field Office in just a moment. Discussions with 12 the Alabama Senate and House leadership have been 13 ongoing to obtain the full one-time request of \$3 14 million.</p> <p>15 Jason, if you would move on to the 16 slide with the Mobile Field Office and Lab.</p> <p>17 Now to our planned Mobile Field 18 Office and Lab.</p> <p>19 Next slide. Following the Deepwater 20 Horizon oil spill in 2010, a settlement was 21 reached with BP to fund numerous projects in the 22 coastal states impacted by the spill, including 23 Alabama. The federal RESTORE Act was enacted to 24 distribute the funds. We began developing a plan 25 for a new Mobile Field Office and Laboratory in</p>	<p>1 This is an architectural rendering 2 of the proposed facility. It reflects a 3 contemporary institutional design with a 4 connection to the region of the state that will 5 be served by that office. The curved front has a 6 changing look as the sunlight and shadows change 7 throughout the day. The design seeks to reflect 8 the dynamics of the Hydrologic Cycle. The design 9 incorporates elements such as Rubber Modified 10 Asphalt, using scrap tire material, in paved 11 areas, ground swales, and other features that 12 help us practice what we preach in environmental 13 responsibility.</p> <p>14 If you go to that next slide, Jason, 15 it's the same as the prior one.</p> <p>16 The \$11 million winning bid with 17 \$5.9 million in RESTORE Act funding leaves 18 approximately a \$5 million funding shortfall. 19 The Department has several options to source the 20 \$5 million so the project will proceed on 21 schedule. A one-time General Fund appropriation 22 has been requested. An inflation adjustment to 23 the \$5.9 million RESTORE Act grant has also been 24 requested. Internal Departmental funding can 25 cover some portion of the shortfall. And,</p>
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<p>1 2010.</p> <p>2 ADEM submitted a \$5.9 million 3 request to the RESTORE Council for the badly 4 needed new Field Office and Laboratory in Mobile. 5 The amount requested was based on a 2010 6 projected cost. The request was eventually 7 awarded.</p> <p>8 And if you fast-forward nearly 11 9 years, after navigating the federal bureaucratic 10 RESTORE Act maze, several lengthy State 11 procurement requirements and several design 12 delays often related to COVID-19, on December 13 15th, 2021, the Department received four bids 14 from prequalified bidders to construct the 15 15,200-square-foot Field Office and Laboratory in 16 Mobile. The four bids ranged from \$11 million 17 even to \$11.6 million. The bids reflected the 57 18 percent inflation in non-residential construction 19 costs since the original 2010 cost estimate, 20 along with additional projected inflation amounts 21 bidders factored into their bids to cover the 22 roughly 18-month period before construction is 23 complete.</p> <p>24 Jason, would you put up that slide 25 showing the picture of the office?</p>	<p>1 finally, if there is any remaining shortfall, it 2 will be funded by borrowing funds such as was 3 done when our main office and laboratory were 4 constructed.</p> <p>5 The Notice to Proceed is scheduled 6 for mid-February with construction anticipated to 7 be complete in 18 months. Future reports will 8 track our progress.</p> <p>9 Jason, if you would move to the 10 software upgrades.</p> <p>11 Another internal ADEM initiative to 12 report to you on is our computer software update 13 that we began planning for in 2018 and kicked off 14 in 2019.</p> <p>15 Next slide there, Jason.</p> <p>16 This is a major upgrade that will 17 build on our existing leadership in automation. 18 As you are no doubt aware, the Department was 19 probably the most automated environmental agency 20 in the nation before this upgrade.</p> <p>21 The NPDES, Underground Storage Tank, 22 Recycle, and several other Land Division 23 applications have gone live internally and 24 externally. Glitches were minimal and all of 25 those have been resolved.</p>

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<p>1 The Solid Waste, Medical Waste, and 2 RCRA notification programs are next and they're 3 well underway.</p> <p>4 The final applications will be Air, 5 Concentrated Animal Feeding Operations, and 6 several other Land Division programs.</p> <p>7 We are on schedule and on budget 8 with an anticipated completion date for the 9 entire system in early calendar year 2023.</p> <p>10 The next generation upgrade will 11 enhance effectiveness and efficiency for many 12 years to come which will help us maintain high 13 performance with exceptionally low funding.</p> <p>14 Jason, would you move on to 15 telework?</p> <p>16 For several years before the COVID- 17 19 pandemic, the Department was contemplating 18 implementing a telework program as a means to 19 attract and retain personnel. In 2020, the 20 COVID-19 pandemic allowed us the opportunity to 21 do a full-scale teleworking experiment. The 22 experiment had several challenges. But in large 23 part due to our high level of automation and the 24 history of our personnel in rising to the 25 occasion of emergencies, the experiment was very</p>	<p>1 while teleworking, and assess supervisory 2 oversight while teleworking.</p> <p>3 It appears ADEM has the most 4 advanced telework program in Alabama State 5 government. Continuation of the telework program 6 for each individual and the Department as a whole 7 is dependent on the success of those teleworking.</p> <p>8 Okay. Moving on to beneficial use 9 rule. Next is an update on our beneficial use 10 rule.</p> <p>11 Jason, if you would click over to 12 the next slide with the several bullets on it.</p> <p>13 As was the case with most states, 14 ADEM historically relied on EPA to regulate the 15 land application of biosolids and other 16 beneficial use products in Alabama.</p> <p>17 Several highly publicized events 18 highlighted the shortcomings of relying on EPA, 19 so in 2019 the Department began developing a 20 program to provide State control of these 21 materials.</p> <p>22 The process involved obtaining input 23 from numerous interested parties and the eventual 24 adoption of a beneficial use rule in 2020.</p> <p>25 Much has been learned since that</p>
Page 11	Page 13
<p>1 successful.</p> <p>2 If you will move on to that next 3 slide, Jason.</p> <p>4 Because of that successful 5 experiment, we have implemented a provisionally 6 permanent telework program. The program will be 7 permanent providing performance does not suffer.</p> <p>8 Eligibility for telework is based on 9 suitability of the job and the individual. 10 Approximately 55 percent of our personnel 11 telework one or two days per week. Telework days 12 are assigned to maintain continuity of access to 13 in-person interaction with regulated industry and 14 the public at ADEM offices.</p> <p>15 A formal agreement with each 16 teleworking employee is in place that includes 17 provisions such as dedicated work space at home, 18 maintaining proper computer communication and 19 security systems, a distraction-free work 20 environment, liability waivers, and the like.</p> <p>21 The annual performance appraisal for 22 teleworking personnel will: Review compliance 23 with the teleworking agreement, also assess 24 productivity of the time spent teleworking, 25 review the telephone and e-mail availability</p>	<p>1 initial rule became effective, and we anticipate 2 bringing an updated beneficial rule for your 3 consideration at either the April or June 4 Commission meeting, depending on the time needed 5 to address any comments from the public. The 6 update to the beneficial use regulations will 7 provide increased testing for pollutants and 8 pathogens, tighter land application requirements, 9 improved notification requirements, improved odor 10 control, and other provisions to enhance the 11 Department's ability to enforce safeguards for 12 property owners, residents and the environment. 13 The draft rule is currently out for public 14 comment.</p> <p>15 Jason, if you will move to the 16 drinking water and wastewater infrastructure 17 funding.</p> <p>18 Drinking water and wastewater 19 infrastructure around the nation and in Alabama 20 has deteriorated and in need of funding for 21 upgrades.</p> <p>22 Next slide, Jason.</p> <p>23 The State of Alabama was allocated 24 approximately \$2.1 billion under the \$1.9 25 trillion American Rescue Plan Act, or ARPA, that</p>



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<p>1 was signed into law on March 11th, 2021. The 2 Governor and the Alabama Legislature have acted 3 to provide \$225 million to upgrading drinking 4 water and wastewater infrastructure in Alabama. 5         On November 15, 2021, the \$1.2 6 trillion Bipartisan Infrastructure Law, or BIL, 7 was signed by the president. The estimated 8 funding for drinking water and wastewater 9 infrastructure in Alabama is \$765 million over a 10 five-year period. The first year total for 11 Alabama is approximately \$137 million. 12         The BIL funding is broken into three 13 categories: Upgrading physical drinking water 14 and wastewater systems, the replacement of 15 drinking water lead service lines, and 16 controlling contaminants of concern, primarily 17 PFAS. 18         The Alabama Legislature tasked ADEM 19 with managing the ARPA funds. The Bipartisan 20 Infrastructure Law requires the State Revolving 21 Fund programs in each state to manage those 22 funds, which in Alabama means ADEM. The process 23 for ARPA and BIL funds will involve determining 24 what the needs of the 1100 systems in Alabama 25 are, prioritizing those needs, overseeing the</p>	<p>1 the source of the contamination. EPA has 2 preemptively exercised its regulatory authority 3 to oversee management of the area since the 4 mid-1980s. Although ADEM does not control the 5 investigation and cleanup, the Commission and the 6 Department have sought to have the cleanup 7 addressed in a timely manner. 8         EPA tested 1,981 individual 9 residential sites for the contaminants. 658 or 10 33.2 percent of the sites tested had 11 contamination at or above the removal management 12 level, or RML. 13         In April 2021, EPA reported removal 14 of the contaminated fill material was 15 approximately 80 percent complete with an 16 anticipated completion date within two years. In 17 response to a December 2021 inquiry from ADEM, 18 EPA reports that it has cleaned up 620 or 94.2 19 percent of the 658 contaminated sites. 20         The removal action approach rather 21 than the extraordinarily lengthy National 22 Priority List, or NPL, process has resulted in a 23 cleanup that ADEM anticipates will be completed 24 in 2022. And it's likely cleanup would not yet 25 be underway, much less nearing completion, if the</p>
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<p>1 distribution of the funds and, finally, assuring 2 the funds are used for the intended purposes. 3         There will be special emphasis on 4 underserved communities, especially in the Black 5 Belt areas. 6         Together the two funding programs 7 will require ADEM to administer approximately \$1 8 billion of new grants and loans over the next 9 five years. It will be a challenging task, and 10 future reports will provide updates on these 11 activities as we go. 12         Jason, can we move to North 13 Birmingham? 14         For a number of years both the 15 Commission and the Department have been keenly 16 interested in dealing with the soil contamination 17 in the 35th Avenue area of North Birmingham. 18         On to the next slide there, Jason. 19         The Collegeville, Fairmont, and 20 Harriman Park neighborhoods near 35th Avenue in 21 North Birmingham are impoverished areas where 22 elevated levels of several contaminants exist 23 that are a cause for great concern for the 24 residents of those communities. Fill material 25 brought in many years ago to mitigate flooding is</p>	<p>1 NPL process were employed. 2         All of this progress is indeed good 3 news for those in the Collegeville, Fairmont, and 4 Harriman Park neighborhoods. 5         Today's final two updates involve 6 Coal Combustion Residuals, or CCR, and per- and 7 polyfluoroalkyl substances, abbreviated as PFAS. 8 The last CCR and PFAS update at a Commission 9 meeting was about a year ago. Since then there 10 have been several activities of note. 11         Jason, will you put up that Coal 12 Combustion Residual slide? 13         Starting with CCR, often referred to 14 as coal ash. 15         Move on to the next slide, Jason. 16         The concern is with unlined 17 impoundments containing coal ash material where 18 contaminants can be released to groundwater. 19 Coal ash management is an issue both nationally 20 and here in Alabama. 21         If you would, put up this next slide 22 with the map on it. 23         Wet coal ash was disposed of at nine 24 sites in Alabama. This slide shows as red dots 25 the nine sites in Alabama where CCR have been</p>

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<p>1 deposited. ADEM took enforcement action for 2 groundwater contamination against the operators 3 of many of these coal ash impoundments following 4 the discovery of the contamination in 2018. Wet 5 coal ash is no longer produced or deposited in 6 Alabama.</p> <p>7           If you would go back to that next 8 slide, it's the same as the prior slide.</p> <p>9           In 2018 State CCR rules were 10 promulgated and have been updated twice. Under 11 the State CCR rules, permits are to be issued for 12 the closure of impoundments at eight of those 13 nine sites. Six sites have had permits issued. 14 The permit for one site is pending and will be 15 final within the next few weeks. The remaining 16 permit is nearing the end of the drafting stage 17 and is scheduled to be completed in 2022. The 18 one legacy site closed prior to the effective 19 date of the Federal and State CCR regulations, so 20 it is not currently subject to permitting 21 requirements. No other state is as far along on 22 permitting. The next step will be developing 23 permit conditions for the remediation of 24 contaminated groundwater at each of the sites.</p> <p>25           In December 2021, ADEM submitted a</p>	<p>1 in humans.</p> <p>2           Drinking water is the primary 3 pathway for accumulation in humans. Despite more 4 than a decade of concern over the possible 5 adverse impacts of the accumulation of the 6 chemicals in humans and extensive ongoing 7 research, EPA estimates they are still a couple 8 of years away from developing the Maximum 9 Contaminant Level, or MCL, standards for drinking 10 water. In the past year, testing methods and 11 control strategies have been developed by EPA, 12 which is helpful.</p> <p>13           Here in Alabama, ADEM is proactive 14 in addressing PFAS, though without federal PFAS 15 standards we must use means other than 16 traditional national enforcement tools.</p> <p>17           Three of the actions are: First, 18 testing of all public drinking water systems in 19 Alabama for the presence of a panel of PFAS 20 compounds in finished drinking water. This 21 allows us to pinpoint where PFAS are present and 22 to act quickly when drinking water health 23 standards are developed. Fortunately, as 24 reported earlier, thanks to the Bipartisan 25 Infrastructure Law, substantial funds are now</p>
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<p>1 package to EPA to become the fourth state granted 2 partial approval of its CCR program. Full 3 approval of Alabama's CCR program must wait until 4 the Federal program is final in order to meet the 5 requirement that our program be as protective as 6 the Federal program. Full approval of our CCR 7 program will allow the regulated community, EPA, 8 and the courts to defer to State regulatory 9 oversight rather than relying on citizen lawsuits 10 to enforce CCR regulations.</p> <p>11           Jason, if you would move to the PFAS 12 slide.</p> <p>13           Our final update topic is per- and 14 polyfluoroalkyl substances, abbreviated as PFAS, 15 which is an issue throughout the nation and here 16 in Alabama.</p> <p>17           If you will move into the next 18 slide, Jason.</p> <p>19           A number of the 5,000 members of 20 this family of chemicals are extremely stable, 21 which causes them to be persistent in the 22 environment. Because of that stability and 23 because they are used in so many applications, 24 they are widely present throughout our 25 environment and have the tendency to accumulate</p>	<p>1 available to reduce PFAS in those drinking water 2 systems where PFAS have been detected.</p> <p>3           Another action to address the PFAS 4 here in Alabama is in-stream water quality and 5 fish tissue monitoring for selected watercourses 6 where there is an increased likelihood of PFAS 7 being present. This gives us an early indicator 8 of future problems and helps us identify 9 potential sources.</p> <p>10           In the third action, the Department 11 is continuing to require extensive discharge 12 monitoring reporting, control measures, and 13 health studies from the PFAS manufacturer in 14 Alabama.</p> <p>15           Information related to each of these 16 actions is available on the ADEM website.</p> <p>17           In closing, I am pleased to notify 18 you of a significant award the Department 19 received several weeks ago. Water Professionals 20 International, for 50 years the premier 21 organization in this field, recognized ADEM as 22 having the best Drinking Water and Wastewater 23 Operator Certification programs in the entire 24 United States. You have often seen and heard the 25 metrics showing the high performance of drinking</p>

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<p>1 water and wastewater systems in Alabama. The 2 ADEM operator certification program plays a 3 crucial role in achieving those results. 4 Is Jim Grassiano there? Jim, are 5 you there? 6 MR. GRASSIANO: Yes. 7 MR. LeFLEUR: Okay. Jim 8 Grassiano is the certification program manager. 9 Jim, would you make yourself known, 10 along with whatever of your staff happen to be 11 there with you? Did you bring your award to show 12 it to everybody, a little show-and-tell? 13 MR. GRASSIANO: Well, it's out 14 in the front of our conference room and you can 15 see it on the table. We've got the award for 16 Alabama. And we've got a team effort here, so I 17 brought Elizabeth Bozeman and Tom Madigan, two of 18 our folks in operator certification. So, thank 19 you. 20 (Audience applause.) 21 MR. LeFLEUR: Congratulations. 22 Okay. That concludes today's report. Any 23 questions, I will be pleased to answer them. 24 MR. WALTERS: Any questions of 25 the Director?</p>	<p>1 Mr. Chairman, and good morning, Commissioners. 2 I'm Stephen Cobb, Chief of the Land Division. 3 I'm here today to recommend that the Commission 4 adopt amendments to the Department's Division 6, 5 Chapter 15, Technical Standards, Corrective 6 Action Requirements and Financial Responsibility 7 for Owners and Operators of Underground Storage 8 Tanks. 9 Our revisions to this chapter of the 10 ADEM Administrative Code are being proposed to 11 update and clarify the requirements for technical 12 standards, corrective action plans, preliminary 13 investigations, free product removal, 14 investigative derived wastes, operation and 15 maintenance of systems including spill prevention 16 equipment and release detection and to make 17 updates to analytical methods. 18 The proposed revisions to the 19 technical standards were the subject of a public 20 comment period which ran from November 21, 2021, 21 to January 6, 2022. The public hearing was held 22 at the Department on January 6th, 2022. No oral 23 comments were received during the hearing and no 24 written comments were received during the public 25 comment period.</p>
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<p>1 (No response.) 2 MR. WALTERS: Everybody is 3 shaking their head no, so no questions. We thank 4 you and we wish you the best success in staying 5 healthy. 6 MR. LeFLEUR: Okay. Well, I 7 plan to be -- stay healthy. I'm currently 8 healthy. And being there of course when I'm 9 able. 10 MR. WALTERS: We will move to 11 agenda item number four, which is the 12 consideration of -- excuse me -- 13 Mary, you're supposed to punch me. 14 I skipped agenda item number three. 15 And there's a reason I skipped it, because it's 16 the report from the Commission Chair and I have 17 no report. That's why I skipped it. 18 Let's start over. Agenda item 19 number four, consideration of adoption of 20 proposed amendments to ADEM Administrative Code 21 Division 335-6, Volume 2. It's the Water Quality 22 Program Regulations, Underground Storage Tank, 23 acronym UST. 24 I call on the Department. Mr. Cobb. 25 MR. COBB: Thank you,</p>	<p>1 The revised regulations are 2 presented to you today for your consideration, 3 and the Department asks that the Commission adopt 4 the proposed changes to the Department's Division 5 6, Chapter 15 regulations. I'm happy to answer 6 any questions that you might have. 7 MR. WALTERS: Any questions of 8 the Department? 9 (No response.) 10 MR. WALTERS: Well, then I will 11 entertain a motion from the Commission regarding 12 the proposed amendments to the Water Quality 13 Program regulations for Underground Storage 14 Tanks. 15 MR. BROWN: Move to adopt the 16 proposed amendments as presented. 17 MS. MERRITT: Second. 18 MR. WALTERS: I have a motion to 19 adopt and a second. 20 Any further discussion? 21 (No response.) 22 MR. WALTERS: All those in 23 favor? 24 (All Commissioners affirm.) 25 MR. WALTERS: Any opposed?</p>

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<p>1 (No response.)</p> <p>2 MR. WALTERS: Motion carries.</p> <p>3 MR. COBB: Thank you, Mr. Chair.</p> <p>4 MR. WALTERS: We will now move</p> <p>5 on the to ADEM Administrative Code Division</p> <p>6 335-7, which is the Water Supply Program</p> <p>7 regulations.</p> <p>8 MR. KITCHENS: Commissioners,</p> <p>9 good morning. I'm Jeff Kitchens, Chief of the</p> <p>10 Water Division. For your consideration today are</p> <p>11 proposed revisions to Division 7 of the ADEM</p> <p>12 Administrative Code, which are the Public Water</p> <p>13 Supply regulations. Revisions to Rules</p> <p>14 335-7-4-.04 and 335-7-4-.07 to add the</p> <p>15 requirements for new water systems and existing</p> <p>16 water systems with a history of non-compliance,</p> <p>17 respectively, to develop an asset management</p> <p>18 plan. These revisions will allow the Department</p> <p>19 to implement new federal requirements under the</p> <p>20 America's Water Infrastructure Act, also known as</p> <p>21 AWIA, which directs primacy agencies to</p> <p>22 incorporate asset management into their capacity</p> <p>23 development programs.</p> <p>24 Revisions to Rule 335-7-7-.04 adds</p> <p>25 more prescriptive requirements to the existing</p>	<p>1 read the specific comments and acted upon them?</p> <p>2 MR. KITCHENS: That is correct.</p> <p>3 DR. MILLER: Okay.</p> <p>4 MR. WALTERS: Any other</p> <p>5 questions?</p> <p>6 (No response.)</p> <p>7 MR. WALTERS: Very well. We</p> <p>8 will entertain a motion from the Commission</p> <p>9 regarding the proposed amendments to the Water</p> <p>10 Supply Program regulations.</p> <p>11 MR. BROWN: Move to adopt the</p> <p>12 amendments as presented.</p> <p>13 MS. MERRITT: Second.</p> <p>14 MR. WALTERS: Have a motion to</p> <p>15 adopt and a second.</p> <p>16 Any further discussion?</p> <p>17 (No response.)</p> <p>18 MR. WALTERS: All those in favor</p> <p>19 of adopting the proposed amendments signify by</p> <p>20 saying "aye."</p> <p>21 (All Commissioners affirm.)</p> <p>22 MR. WALTERS: Any opposed?</p> <p>23 (No response.)</p> <p>24 MR. WALTERS: Motion carries.</p> <p>25 MR. KITCHENS: Thank you.</p>
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<p>1 requirement that water systems inspect their</p> <p>2 finished water storage tanks at regular intervals</p> <p>3 and repair deficiencies in a timely manner. The</p> <p>4 proposed revisions are consistent with industry</p> <p>5 standards and other state primacy agencies.</p> <p>6 Notice was published on November 21,</p> <p>7 2021, and the public hearing was held on January</p> <p>8 10, 2022. No comments were received during the</p> <p>9 public hearing, but written comments were</p> <p>10 received during the public comment period from</p> <p>11 two individuals regarding the finished water</p> <p>12 storage tank maintenance rule revisions. After</p> <p>13 consideration of the comments, the Department has</p> <p>14 proposed two revisions to the original proposed</p> <p>15 rules for the reasons noted in the reconciliation</p> <p>16 statement you have before you. Additional</p> <p>17 comments have been addressed and no additional</p> <p>18 changes are proposed.</p> <p>19 We respectfully ask for your</p> <p>20 favorable consideration of the proposed rules</p> <p>21 with the revisions noted, and I would be happy to</p> <p>22 answer any question that you may have.</p> <p>23 MR. WALTERS: Any questions for</p> <p>24 Mr. Kitchens?</p> <p>25 DR. MILLER: So you guys did</p>	<p>1 MR. WALTERS: Item number six is</p> <p>2 consideration of adoption of proposed amendments</p> <p>3 to ADEM Administrative Code Division 335-16, the</p> <p>4 Drycleaning Trust Fund Program regulations.</p> <p>5 Call on the Department. Mr. Cobb.</p> <p>6 MR. COBB: Thank you,</p> <p>7 Mr. Chairman. I'm also here today to recommend</p> <p>8 that the Commission adopt amendments to the</p> <p>9 Department's Division 16 Drycleaning Trust Fund</p> <p>10 Program regulations. These amendments propose</p> <p>11 changes to Chapters 1, 2, 3, 4, 5 and 6 of those</p> <p>12 regulations.</p> <p>13 Revisions to these chapters of the</p> <p>14 ADEM Administrative Code Division 16 are being</p> <p>15 proposed to add language regarding environmental</p> <p>16 covenants and to update references to other</p> <p>17 Departmental regulations.</p> <p>18 The proposed revisions were the</p> <p>19 subject of a public comment period which ran from</p> <p>20 November 21st, 2021, to January 6th, 2022. The</p> <p>21 public hearing was held at the Department on</p> <p>22 January 6th. No oral comments were received</p> <p>23 during the hearing and no written comments were</p> <p>24 received during the public comment period. So,</p> <p>25 therefore, the revised regulations are presented</p>

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<p>1 to you today for your consideration. 2 The Department asks that the 3 Commission adopt the proposed changes to the 4 Department's Division 16 Drycleaning Trust Fund 5 Program regulations. And I'm happy to answer any 6 questions that you may have. 7 MR. WALTERS: Any questions of 8 Mr. Cobb? 9 (No response.) 10 MR. WALTERS: Thank you. We 11 will entertain a motion then to the Commission 12 regarding proposed amendments to the Drycleaning 13 Trust Fund Program regulations. 14 MR. BROWN: Move to approve the 15 Drycleaning Trust Fund Program regulation 16 amendments as presented. 17 MS. MERRITT: Second. 18 MR. WALTERS: I have a motion. 19 I have a second. 20 Any further discussion? 21 (No response.) 22 MR. WALTERS: We will call for 23 the question. All those in favor of approving 24 the proposed amendments to the Drycleaning Trust 25 Fund Program regulations as submitted, signify by</p>	<p>1 DR. MILLER: Second. 2 MR. WALTERS: I have a motion 3 and a second to adopt the Hearing Officer's 4 Recommendation for Dismissal. 5 All those in favor signify by saying 6 "aye." 7 (All Commissioners affirm.) 8 MR. WALTERS: Any opposed? 9 (No response.) 10 MR. WALTERS: Motion carried. 11 Agenda item number eight has to do 12 with the Greater Birmingham Alliance to Stop 13 Pollution, known as GASP, Petitioner versus ADEM, 14 Respondent, and Advance Etowah, Choice 15 Fabricators, and Pilgrim's Pride Corporation, 16 Intervenors. 17 Agenda item number eight is the 18 acknowledgement for the record of Petitioner, 19 GASP, Inc.'s withdrawal of its request for the 20 hearing. 21 The Petitioner requested a hearing 22 for the air permits issued by the Department to 23 Pilgrim's Pride, Corporation for the company's 24 Gadsden Animal Feed Ingredients plant in Gadsden. 25 In December 2021, Pilgrim's Pride voluntary</p>
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<p>1 saying "aye." 2 (All Commissioners affirm.) 3 MR. WALTERS: Any opposed? 4 (No response.) 5 MR. WALTERS: Motion carries. 6 Didn't know that February was 7 Administrative Code amendment month. 8 We will move on to agenda item 9 number seven which is the consideration of the 10 Hearing Officer's Recommendation of Dismissal 11 based on the Voluntary Motion to Dismiss filed by 12 the Petitioner. Petitioner appealed the certain 13 action appearing in an e-mail dated February 21, 14 2021, from ADEM to Jet-Pep, Incorporated, 15 regarding the retail gasoline facility owned by 16 K.E.N. and the underground storage tanks owned by 17 Jet-Pep, Incorporated, located in Hoover, 18 Jefferson County, is to signify by UST number 19 15-10-05 and Facility ID 12740-073-001475. 20 I will entertain a motion from the 21 Commission regarding the Hearing Officer's 22 Recommendation of Dismissal? 23 MR. BROWN: Move to adopt the 24 Hearing Officer's Recommendation of Dismissal. 25 MR. WALTERS: I have a motion.</p>	<p>1 surrendered its air permits back to the 2 Department. And as a result of that, Petitioner 3 has withdrawn its request for hearing; therefore, 4 Chair acknowledges for the record Petitioner 5 GASP, Inc.'s withdrawal for its request for a 6 hearing. And therefore we have nothing to sign. 7 Do we have any other business that 8 needs to be brought before the Commission today? 9 (No response.) 10 MR. WALTERS: And I don't 11 believe we've had anyone signed up to speak. 12 Therefore, our next meeting is 13 scheduled for -- Commission meeting is April 8th. 14 Do we have any known conflicts? 15 (No response.) 16 MR. WALTERS: Try to avoid any 17 exposure to positive tested people. 18 So, therefore, we meet on April 8th, 19 and I will now entertain a motion to adjourn. 20 MR. BROWN: Move to adjourn. 21 MS. MERRITT: Second. 22 MR. WALTERS: We have a motion 23 and a second to adjourn. 24 All those in favor signify by saying 25 "aye."</p>

<p>1 (All Commissioners affirm.) 2 MR. WALTERS: Thank you for 3 being here. I appreciate it, everyone. We are 4 adjourned. 5 (Proceedings concluded at 6 11:45 a.m.) 7 ***** 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 34</p>
<p>1 STATE OF ALABAMA) 2 COUNTY OF ELMORE) 3 4 5 I hereby certify that the above 6 proceedings were taken down by me and transcribed 7 by me using computer-aided transcription and that 8 the above is a true and accurate transcript of 9 said proceedings taken down by me and transcribed 10 by me. 11 I further certify that I am neither 12 of kin nor of counsel to any of the parties nor 13 in anyway financially interested in the outcome 14 of this case. 15 I further certify that I am duly 16 licensed by the Alabama Board of Court Reporting 17 as a Certified Court Reporter as evidenced by the 18 ACCR number following my name found below. 19 20 21 22 <i>Victoria Castillo</i> 23 24 VICTORIA CASTILLO, ACCR #17, 9/30/22 25 FREELANCE COURT REPORTER</p>	<p>Page 35</p>

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**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
**Commission Meeting on 02/11/2022 Index: supervisory..WALTERS**

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ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Commission Meeting on 02/11/2022

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**Part B**

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(Volume 2) Water Quality Program Regulations, Underground Storage  
Tank (UST), and Attachment A, Adopted Proposed Rules  
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**Attachment 4 Resolution adopting amendments to ADEM Administrative Code 335-7,  
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(Agenda Item 5)**

**Attachment 5 Resolution adopting amendments to ADEM Administrative Code 335-16,  
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**Attachment 6 Order adopting Hearing Officer's Recommendation of Dismissal, and  
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**Attachment 1**

AGENDA\*  
 MEETING OF THE  
 ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION  
 DATE: February 11, 2022  
 TIME: 11:00 a.m.  
 LOCATION: Alabama Department of Environmental Management (ADEM) Building  
 Alabama Room (Main Conference Room)  
 1400 Coliseum Boulevard  
 Montgomery, Alabama 36110-2400

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\* The Agenda for this meeting will be available on the ADEM website, [www.adem.alabama.gov](http://www.adem.alabama.gov), under Environmental Management Commission.

\*\* The Minutes for this meeting will be available on the ADEM website under Environmental Management Commission.

1. CONSIDERATION OF MINUTES OF MEETING HELD ON DECEMBER 10, 2021
2. REPORT FROM THE ADEM DIRECTOR
3. REPORT FROM THE COMMISSION CHAIR
4. CONSIDERATION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE DIVISION 335-6, (VOLUME 2) WATER QUALITY PROGRAM REGULATIONS, UNDERGROUND STORAGE TANK (UST)

The Commission will consider proposed amendments to ADEM Administrative Code Division 335-6, (Volume 2) Water Quality Program Regulations, UST. Revisions to Chapter 335-6-15 Technical Standards, Corrective Action Requirements and Financial Responsibility For Owners and Operators of Underground Storage Tanks, are being proposed to clarify the requirements for technical standards, corrective action plans, preliminary investigations, free product removal, investigative derived wastes, the operation and maintenance of systems including spill prevention equipment and release detection and to make updates to analytical methods. In addition, there are revisions to correct regulation citations and make grammatical clarifications. The Department held a public hearing on the proposed amendments on January 6, 2022.

5. CONSIDERATION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE DIVISION 335-7, WATER SUPPLY PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Administrative Code Division 335-7, Water Supply Program Regulations. Revisions are proposed to Rule 335-7-4-.04 Requirements for New Water Systems, Rule 335-7-4-.07 Facility Permit Renewal, and Rule 335-7-7-.04 Water Storage Tank Maintenance. These proposed revisions address drinking water storage tank maintenance, and incorporate asset management in capacity development for public water systems. The Department held a public hearing on the proposed amendments on January 10, 2022.

6. CONSIDERATION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE DIVISION 335-16, DRYCLEANING TRUST FUND PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Administrative Code Division 335-16, Drycleaning Trust Fund Program Regulations. Revisions incorporate needed general updates noted through the Chapters including Ch. 335-16-1 General, Ch. 335-16-2 Participation, Ch. 335-16-3 Generator Requirements, Ch. 335-16-4 Site Tracking and Prioritization, and Ch. 335-16-5 Operating Standards. These revisions add language regarding Environmental Covenants and correct regulation citations and make grammatical clarifications. The Department held a public hearing on the proposed amendments on January 6, 2022.

7. JET-PEP, INC., PETITIONER V. ADEM, RESPONDENT, EMC DOCKET NO. 21-04

The Commission will consider the Hearing Officer's Recommendation of Dismissal, based on the Voluntary Motion to Dismiss filed by Petitioner, Jet-Pep, Inc. The Hearing Officer recommends that the Commission grant the Voluntary Motion to Dismiss and dismiss the matter with prejudice.

On June 28, 2021, the Petitioner appealed the certain action appearing in an email dated February 21, 2021, from ADEM to Jet-Pep, Inc. regarding the retail gasoline facility owned by K.E.N., and the underground storage tanks owned by Jet-Pep, Inc., located in Hoover, Jefferson County, UST 15-10-05 Facility ID 12740-073-001475.

8. GREATER BIRMINGHAM ALLIANCE TO STOP POLLUTION ("GASP, INC."), PETITIONER V. ADEM, RESPONDENT, AND ADVANCE ETOWAH, CHOICE FABRICATORS, INC., AND PILGRIM'S PRIDE CORPORATION, INTERVENORS, EMC DOCKET NO. 21-03

The Commission will acknowledge for the record Petitioner GASP, Inc.'s withdrawal of its Request for Hearing.

On March 29, 2021, Petitioner GASP, Inc. filed with the Commission a Request for Hearing regarding ADEM's issuance of Air Permits Nos. 307-0051-X001 and 307-0051-X002 to Pilgrim's Pride Corporation on February 26, 2021, for the Company's Gadsden Animal Feed Ingredients plant located in Gadsden, Alabama. On December 30, 2021, Pilgrim's Pride Corporation voluntarily surrendered the above-referenced Air Permits to ADEM. As such, GASP, Inc. filed with the Commission a withdrawal of its Request for Hearing.

9. OTHER BUSINESS
10. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

BRIEF STATEMENTS BY MEMBERS OF THE PUBLIC REGISTERED TO SPEAK

Members of the public that wish to make a brief statement at a Commission meeting may do so by first signing in on a register maintained by the Commission office prior to each regularly scheduled meeting. The register will close ten minutes prior to convening each meeting of the Commission. Following completion of all agenda items, the Commission Chair will call on members of the public wishing to make a statement in the order their names appear on the register. Speakers are encouraged to limit their statement to matters that directly relate to the Commission's functions. Speakers will be asked to observe a three minute time limit. While an effort will be made to hear all members of the public signed on the register, the Commission may place reasonable limitations on the number of speakers to be heard. (Guideline 11, Guidelines for Public Comment).

The Guidelines for Public Comment are used in the application of ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda and Public Participation. The Guidelines for Public Comment serve to educate and inform the public as to how the Commission interprets and intends to apply the Rule. The revised Rule 335-2-3-.05 was effective October 7, 2016.

**Attachment 2**



**Alabama Department Of  
Environmental Management**

## **FY 2023 Budget**



**Alabama Department Of  
Environmental Management**

## **FY 2023 Budget**

- 54% fees; 40% Federal grant; 6% Gen Fund
- FY 2020 – 2022 GF = \$4 mil / yr
- Likely FY 2023 GF = \$4 mil
- Gen Fund request for \$3 mil for Mobile Field Office and Lab





Alabama Department Of  
Environmental Management

## Mobile Field Office & Lab



Alabama Department Of  
Environmental Management

### Mobile Field Office and Lab

- Plan initiated in 2010
- \$5.9 mil RESTORE Act grant
- 11 year delay; \$5.9 mil -> \$11.0 mil
- Options to cover \$5 mil shortfall
- NTP mid – February: 18 mo. construction



**ADEM** Alabama Department Of  
Environmental Management

**Software Update**



## Alabama Department Of Environmental Management

### Software Upgrades

- Major undertaking – build on existing lead
- Applications completed: NPDES, UST, Recycle
- Applications underway: Solid Waste, RCRA
- Remaining applications: Air, CAFO
- Upgrades complete CY 2023



## Alabama Department Of Environmental Management

### Telework

**Telework**

- Provisionally implemented
- 55% of personnel eligible 1 or 2 days / wk.
- Annual assessment:
  - Review agreed obligations with each participant
  - Relevant performance measures during telework
  - Assess telephone / email responsiveness
  - Assess daily communication with supervisors

**Beneficial Use Rule Update**



## Alabama Department Of Environmental Management

### Beneficial Use Rule Update

- Previously relied on EPA oversight
- Events highlighted EPA shortcomings
- Initial rule 2020
- Updated rule to AEMC April / June
- Updates to: testing, applications, notification, odor control



## Alabama Department Of Environmental Management

### Drinking Water / Clean Water Infrastructure Funding



**Alabama Department Of  
Environmental Management**

**Drinking Water / Clean Water  
Infrastructure Funding**

- American Rescue Plan Act - \$225 mil
- Bipartisan Infrastructure Bill - \$765 mil
- Water & Sewer upgrades, Lead service lines, contaminates of concern (PFAS)
- ADEM: assess needs, prioritize, distribute, follow up



**Alabama Department Of  
Environmental Management**

**North Birmingham 35<sup>th</sup> Ave.**



**Alabama Department Of  
Environmental Management**

**North Birmingham 35<sup>th</sup> Avenue**

- Collegeville, Fairmont, Harriman Park
- Residential sites – 1,981
- Sites contaminated – 658 (33.2% of total sites)
- Sites cleaned up – 620 (94.2% of contaminated sites)
- Estimated completion 2022

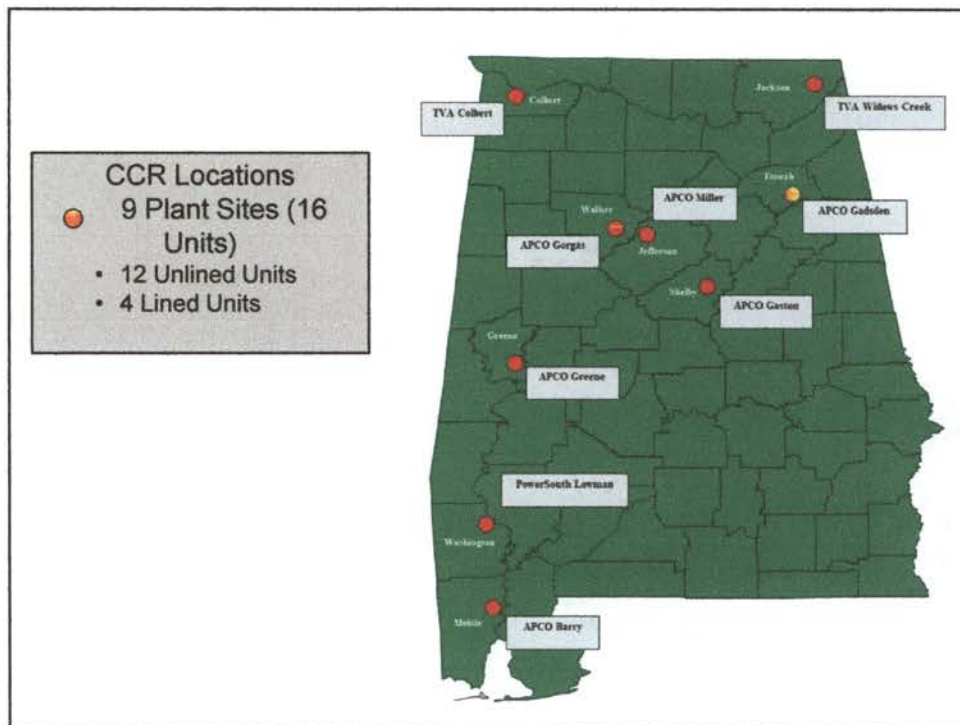


**Alabama Department Of  
Environmental Management**

**Coal Combustion Residuals (CCR)**

### Coal Combustion Residuals (CCR)

- Concern is groundwater contamination
- 9 sites in Alabama
- 6 closures permitted; 1 closure permit pending; 1 closure permit being drafted; 1 legacy
- State CCR program submitted for EPA approval





## **Per- and Polyfluoroalkyl Substances (PFAS)**

### **Per- and Polyfluoroalkyl Substances**

- Persistent & widely present in environment
- No EPA standards
- ADEM actions to address PFAS:
  - Tested all public drinking water systems
  - Waterways in-stream monitoring
  - Oversight of PFAS manufacturer

**Attachment 3**

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-6 of the Department's Water Division's Water Quality Program Rules and Regulations in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed the oral and written submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all oral and written submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.

NOW THEREFORE, pursuant to Ala. Code. §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-6 [rules 335-6-15-.02/ Definitions (Amend); 335-6-15-.03/Applicability (Amend); 335-6-15-.07/ Upgrading of Existing UST Systems (Amend); 335-6-15-.08/ Plans and Specifications (Amend); 335-6-15-.09/ Operation, Maintenance, and Testing or Inspection of Spill and Overfill Prevention Equipment and Containment Systems; and Walkthrough Inspections

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

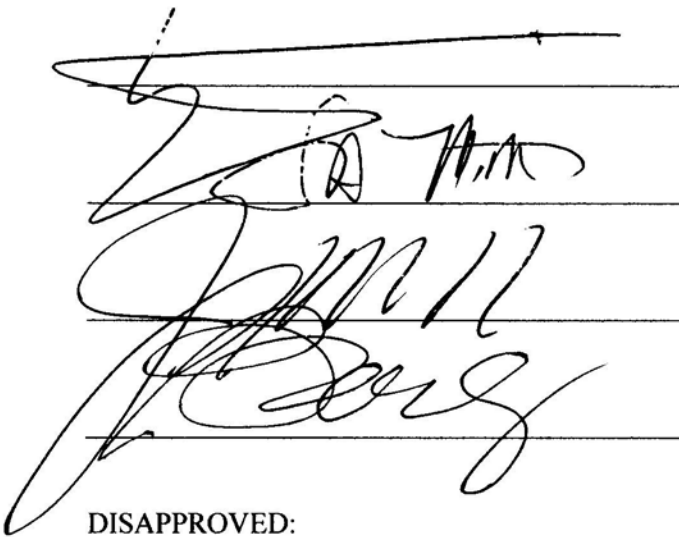
(Amend); 335-6-15-.10/ Operation and Maintenance of Corrosion Protection (Amend); 335-6-15-.12/ Repairs Allowed (Amend); 335-6-15-.14/ General Release Detection Requirements for All UST Systems (Amend); 335-6-15-.17/ Methods of Release Detection for Underground Storage Tanks (Amend); 335-6-15-.22/ Release Investigation and Confirmation Steps (Amend); 335-6-15-.23/ Reporting and Cleanup of Spills and Overfills (Amend); 335-6-15-.24/ Initial Release Response (Amend); 335-6-15-.25/ Initial Abatement Measures and Preliminary Investigation (Amend); 335-6-15-.26/ Preliminary Investigation Requirements (Amend); 335-6-15-.27/ Free Product Removal (Amend); 335-6-15-.28/ Secondary Investigation Requirements (Amend); 335-6-15-.29/ Corrective Action Plan (Amend); 335-6-15-.30/ Corrective Action Requirements (Amend); 335-6-15-.32/ Analytical Requirements (Amend); 335-6-15-.35/ Site Closure or Change-In-Service Assessment (Amend) ] of the Department's Water Division – Water Quality Program rules, administrative code attached hereto, to become effective forty-five days, unless otherwise indicated, after filing with the Alabama Legislative Services Agency.

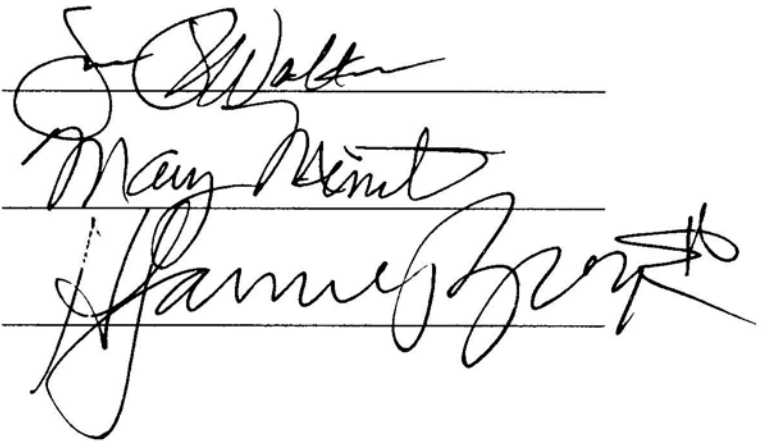
**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

ADEM Admin. Code division 335-6 – Water Quality Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 11<sup>th</sup> day of February 2022.

APPROVED:

Handwritten signatures in the APPROVED section, including a large signature that appears to be 'J. Walker' and several others.

Handwritten signatures in the APPROVED section, including 'J. Walker', 'May Mint', and 'James Brown'.

DISAPPROVED:


\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ABSTAINED:

\_\_\_\_\_

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 11th day of February 2022.

  
Chair  
Environmental Management Commission  
Certified this 11th day of February 2022

\_\_\_\_\_

**335-6-15-.02 Definitions.** The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

(a) "Aboveground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system.

(b) "ADEM" means the Alabama Department of Environmental Management.

(c) "Airport hydrant fuel distribution system" means an UST system which fuels aircraft and operates under high pressure with large diameter underground piping that typically terminates into one or more hydrants (fill stands). The airport hydrant fuel distribution system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

(d) "Ancillary equipment" means any devices including, but not limited to, such devices as underground piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

(e) "Belowground release" means any release to the subsurface of the land, including releases to groundwater. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

(f) "Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

(g) "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an underground storage tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

(h) "Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and underground storage tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and underground storage tank systems. Such persons must also be certified, and then recertified every 3 years, as successfully completing in-class and field training from a corrosion expert. Certification may no longer be

recognized by the Department and/or the certifying organization if a certified individual is not recertified within 90 days or another time period approved by the Department after expiration of their certification, there is evidence of fraud, or the tester is determined by the Department to not be capable of properly performing cathodic protection testing. At a minimum, certification training shall encompass all of the following and recertification training shall include the training outlined in subparagraphs (h)3. through 5. of this rule, or be in accordance with NACE International certification and recertification requirements:

1. Basics of corrosion which include the following discussions:
  - (i) What corrosion is;
  - (ii) Significance and costs of corrosion;
  - (iii) Conditions for corrosion to occur;
  - (iv) Electrochemical aspects of corrosion;
  - (v) Environmental effects on UST systems such as oxygen, temperature, corrosivity of the environment, concentration of corrosive element, and galvanic coupling;
  - (vi) Types of corrosion;
  - (vii) Galvanic series and Electromotive Force series; and
  - (viii) Corrosion properties of different metals and nonmetals.
2. Underground corrosion discussion which includes the following:
  - (i) Chemical and physical properties of soils;
  - (ii) Factors affecting underground corrosion such as:
    - (I) Soil particle size and composition; and
    - (II) Electrolyte moisture content, resistivity, and acidity/alkalinity;
  - (iii) Factors in underground corrosion of ferrous metals such as burial depth, area effects, and time buried; and
  - (iv) Behavior of coatings in soils.
3. Corrosion prevention discussion which includes the following:
  - (i) Impressed current cathodic protection system mechanism, economics, continuity and structure-to-soil testing, anode selection, life of anode, anode environment, design and installation of anodes;

(ii) Sacrificial anode (galvanic) cathodic protection system mechanism, economics, continuity and structure-to-soil testing, anode selection, life of anode, anode environment, design and installation of anodes;

(iii) Sources of power for cathodic protection;

(iv) When to use an impressed current cathodic protection system versus a sacrificial anode cathodic protection system;

(v) Misconceptions about cathodic protection;

(vi) Purpose of cathodic protection monitoring and testing, criterion used for monitoring steel, and criterion for monitoring other metals;

(vii) Reference cell purpose, practical test locations, test stations, and maintenance;

(viii) Stray current sources, detection, testing, and prevention;

(ix) Use of coatings in underground applications to prevent corrosion; and

(x) UST internal corrosion problems and prevention.

4. Discussion of regulatory requirements for corrosion protection as follows:

(i) Federal and state of Alabama corrosion protection requirements;

(ii) Qualifications required to perform corrosion protection work as a corrosion expert and cathodic protection tester;

(iii) Integrity assessment prior to addition of cathodic protection such as internal inspection and acceptable alternatives;

(iv) Corrosion protection upgrading options; and

(v) Monitoring and recordkeeping requirements.

5. Discussion of standards and recommended practices such as NACE International, American Petroleum Institute, Petroleum Equipment Institute, National Fire Prevention Association, American Society for Testing and Materials, and Steel Tank Institute.

6. Hands-on field inspection and testing session featuring galvanic versus impressed current systems, reference electrodes, rectifiers, instrumentation, test stations, structure-to-soil and continuity testing, what to look for to determine compliance with cathodic requirements, cathodic protection system problems, and what to do if cathodic protection system does not meet minimum criteria.



(i) "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(j) "Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the underground storage tank system under conditions likely to be encountered in the UST.

(k) "Connected piping" means all underground piping including valves, elbows, joints, flanges and flexible connectors attached to an underground storage tank system through which regulated substances flow. For the purpose of determining how much underground piping is connected to any individual UST system, the underground piping that joins two UST systems should be allocated equally between them.

(l) "Consumptive use" with respect to heating oil means consumed on the premises.

(m) "Containment sump" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from underground piping, dispensers, pumps and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of the UST (UST top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the underground piping run (transition or intermediate sump).

(n) "Contaminant" means a regulated substance which has been released into the environment.

(o) "Continuous interstitial monitoring" means performing interstitial monitoring on an uninterrupted basis.

(p) "Corrective action limits (CAL)" means those contaminant concentrations which must be achieved in order for corrective action to be deemed complete by the Department.

(q) "Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal underground storage tanks. Such a person must be accredited or certified as being qualified by NACE International or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal underground storage tanks. Such person is qualified to test cathodic protection systems without becoming certified and recertified as defined in subparagraph (h) of this rule.

(r) "Critical junctures" means the steps taken to install, close, and repair UST systems which, if done improperly, could result in the greatest risk of a release.

(s) "Department" means the Alabama Department of Environmental Management.

(t) "Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., underground storage tank from underground piping).

(u) "Director" means the Director of the Alabama Department of Environmental Management.

(v) "Dispenser" means equipment located aboveground that dispenses regulated substances from the UST system.

(w) "Dispenser system" means the dispenser as defined in paragraph (v) of this rule and the equipment necessary to connect the dispenser to the underground storage tank system.

(x) "Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(y) "Excavation zone" means the volume containing the underground storage tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

(z) "Existing tank system" means an underground storage tank system used to contain an accumulation of regulated substances or for which installation has commenced before April 5, 1989. Installation is considered to have commenced if:

1. The owner or operator has obtained all federal, state of Alabama, and local approvals or permits necessary to begin physical construction of the site or installation of the underground storage tank system; and if,

2. Either a continuous on-site physical construction or installation program has begun; or,

3. The owner or operator has entered into contractual obligations--which cannot be cancelled or modified without substantial loss--for physical construction at the site or installation of the underground storage tank system to be completed within a reasonable time.

(aa) "Farm tank" is an underground storage tank located on a tract of land devoted to the production of crops or raising animals, including fish, and

associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(bb) "Field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

(cc) "Flow-through process tank" is an underground storage tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process underground storage tanks do not include underground storage tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

(dd) "Free product" refers to a regulated substance that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water).

(ee) "Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

(ff) "Groundwater" means water below the land surface in a zone of saturation.

(gg) "Hazard quotient" means a ratio of the level of exposure of a chemical over a specified time period to a "reference dose", as defined in subparagraph (jjj) of this rule, for that chemical of concern derived for a similar exposure period.

(hh) "Hazardous substance" means a hazardous substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under Division 14 of the ADEM Administrative Code) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

(ii) "Hazardous substance UST system" means an underground storage tank system that contains any substance defined as a hazardous substance in subparagraph (hh) of this rule.

(jj) "Health Advisory Level" or "(HAL)-A" means a level established by the United States Environmental Protection Agency which provides the level of a contaminant in drinking water at which adverse non-carcinogenic health effects would not be anticipated with a margin of safety.

(kk) "Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels

when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

(ll) "Hydraulic lift tank" means an underground storage tank holding hydraulic fluid for a closed-loop mechanical system that used compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

(mm) "~~Individual-Incremental~~ Excess Lifetime Cancer Risk" or "IELCR" means the increase over background in an individual's probability of getting cancer over a lifetime due to exposure to ~~a chemical~~ hazardous substances.

(nn) "Interstitial monitoring" is a method of routinely checking at regular intervals for leaks into the space between the primary wall of an UST or underground piping and an outer secondary barrier.

(oo) "Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

(pp) "Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.

(qq) "Maximum Contaminant Level" or "MCL" means a level established by the United States Environmental Protection Agency which is the maximum permissible level of a contaminant in drinking water that is delivered to any user of a public water system.

(rr) "Motor fuel" means a complex blend of hydrocarbons typically used for combustion in the operation of a motor or engine such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, biodiesel, or any blend containing one or more of these substances (for example: motor gasoline blended with alcohol).

(ss) "New dispenser system" is either a newly manufactured or operational dispenser and the equipment necessary to connect the dispenser to the underground storage tank system, which includes check valves, shear valves, unburied risers, flex connectors, or other transitional components which connect the dispenser to the underground piping, which is installed for the first time or at a new location on August 6, 2007 and thereafter.

(tt) "New UST system" means an underground storage tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced on or after April 5, 1989. See also "Existing tank system" in subparagraph (z) of this rule.

(uu) "Noncommercial purposes" with respect to motor fuel means not for resale.

(vv) "On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

(ww) "Operational life" refers to the period beginning when installation of the underground storage tank system has commenced until the time the underground storage tank system is properly closed under rules 335-6-15-.34 through 335-6-15-.37.

(xx) "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

(yy) "Operator, Class A" means any person who is, or is employed by, the underground storage tank owner, underground storage tank facility owner, or lessee, who has primary responsibility to operate and maintain underground storage tank systems. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments to achieve and maintain compliance with Department underground storage tank regulatory requirements. In general, this person focuses on the broader aspects of the regulations and standards necessary to operate and maintain underground storage tank systems in accordance with this chapter. For example, this person typically ensures that responsible person(s):

1. Are trained to operate and maintain underground storage tank systems and keep records in accordance with the requirements in this chapter;
2. Operate and maintain underground storage tank systems in accordance with the requirements in this chapter;
3. Maintain records in accordance with the requirements of this chapter;
4. Respond to emergencies caused by releases or spills from underground storage tank systems in accordance with the requirements of this chapter; and
5. Make financial responsibility documents available to the Department as required by rules 335-6-15-.13 and 335-6-15-.43.

(zz) "Operator, Class B" means any person who is, or is employed by, the underground storage tank owner, underground storage tank facility owner, or lessee, who implements underground storage tank regulatory requirements and standards in the field in accordance with this chapter. This person implements day-to-day aspects of operating, maintaining, and recordkeeping for underground storage tank systems at one or more facilities. For example, this person typically monitors, maintains, and ensures:

1. Compliance with release detection, recordkeeping, and reporting requirements;

2. Compliance with release prevention, recordkeeping, and reporting requirements;

3. Compliance with performance standards for all relevant equipment; and

4. Training of responsible persons to respond to emergencies caused by releases or spills in accordance with the requirements of this chapter.

(aaa) "Operator, Class C" means any person who is, or is employed by, the underground storage tank owner, underground storage tank facility owner, or lessee, who is generally the first line of response to events indicating emergency conditions. This person is responsible for responding to alarms or other indications of emergencies caused by spills or releases from underground storage tank systems, and for notifying the Class B or Class A operator and appropriate emergency responders when necessary. Not all employees of the facility are necessarily Class C operators. This person typically:

1. Controls or monitors the dispensing or sale of regulated substances; or

2. Is responsible for initial response to alarms or releases.

(bbb) "Overfill release" is a release that occurs when an underground storage tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

(ccc) "Owner" means: in the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and in the case of any UST system in use before November 8, 1984, but no longer in use on that date, the present owner of the underground storage tank and any person who owned such underground storage tank immediately before the discontinuation of its use.

(ddd) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, state, municipality, commission, political subdivision of a state, or any interstate body. "Person" also includes a consortium, a joint venture, a commercial entity, and the United States Government.

(eee) "Petroleum" means crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), petroleum-based substances comprised of a complex blend of hydrocarbons or a mixture of petroleum with de minimis concentrations of other regulated substances such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(fff) "Petroleum UST system" means an underground storage tank system that contains "petroleum" as defined in subparagraph (eee) of this rule.

(ggg) "Pipe" or "Piping" means a hollow cylinder or tubular conduit that is constructed of non-earthen materials that routinely contains and conveys regulated substances from the underground storage tank(s) to the dispenser(s) or other end-use equipment. Such "pipe" or "piping" includes any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the underground storage tank(s) to the dispenser(s). This definition excludes vent, vapor recovery, or fill lines that do not routinely contain regulated substances.

(hhh) "Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

(iii) "Red tag" means a tamper resistant device or mechanism which can be placed on an underground storage tank's fill pipe that clearly identifies the underground storage tank as being prohibited from accepting regulated substance delivery. The device or mechanism is easily visible to the regulated substance deliverer and clearly conveys that it is unlawful to deliver to, or accept product into the underground storage tank.

(jjj) "Reference dose" means an estimate of a daily exposure to the general human population that is likely to be without an appreciable risk of deleterious effects during a lifetime of exposure.

(kkk) "Regulated substance" means any substance defined as a hazardous substance in subparagraph (hh) of this rule or any substance defined as petroleum in subparagraph (eee) of this rule.

(lll) "Regulated substance deliverer" means any person who delivers a regulated substance to an underground storage tank.

(mmm) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into groundwater, surface water or subsurface soils.

(nnn) "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

(ooo) "Repair" means to restore to proper operating condition an underground storage tank, underground pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, or other UST system component that has caused or could cause a release of product from the UST system or has failed to function properly, that is not "routine maintenance" as defined in subparagraph (qqq) of this rule.

(ppp) "Residential tank" is an underground storage tank located on property used primarily for dwelling purposes.

(qqq) "Routine maintenance" means an activity designed to maintain an UST system that is completed without breaking concrete, asphalt, or other paved surface and/or ground, and that is not a "repair" as defined in subparagraph (ooo) of this rule, installation, or closure. This includes work on or replacing spill catchment basins, automatic line leak detectors, automatic tank gauge probes, suction or submersible pumps, overflow prevention devices, drop tubes, check valves, underground storage tank fill adaptors, caps, lids, and manhole covers, fuses, dispenser components above shear valve, all without breaking concrete, asphalt or other paved surface, and/or ground.

(rrr) "SARA" means the Superfund Amendments and Reauthorization Act of 1986.

(sss) "Secondary containment" or "Secondarily contained" means a release prevention and release detection system for an underground storage tank or underground piping. This system has an inner and outer barrier with an interstitial space that is monitored for leaks. This term includes containment sumps when used for interstitial monitoring of underground piping.

(ttt) "Septic tank" is a water-tight covered underground receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the underground tank are pumped out periodically and hauled to a treatment facility.

(uuu) "Significant noncompliance requiring delivery prohibition" means a failure of an owner or operator to comply with any of the following requirements of this chapter that will result in the Department prohibiting delivery of regulated substances to an underground storage tank facility, after being given notice: installation of spill prevention, overflow prevention, leak detection, or corrosion protection equipment on an underground storage tank system as required by rules 335-6-15-.03, 335-6-15-.04, 335-6-15-.06, 335-6-15-.07, 335-6-15-.09 through 335-6-15-.12, and 335-6-15-.14 through 335-6-15-.18.

(vvv) "Significant noncompliance subject to delivery prohibition" means a failure of an owner or operator to comply with any of the following requirements of this chapter that may result in the Department prohibiting delivery of regulated substances to an underground storage tank facility, after being given notice and appropriate time by the Department to comply:

1. Notification requirements for an underground storage tank system with the Department in accordance with rule 335-6-15-.05;

2. Operation and/or maintenance of spill prevention, overflow prevention, leak detection, or corrosion protection equipment on an underground storage tank system as required by rules 335-6-15-.03, 335-6-15-.04, 335-6-15-.06, 335-6-15-.07, 335-6-15-.09, 335-6-15-.10, and 335-6-15-.14 through 335-6-15-.18;



3. Installation, operation and/or maintenance of under dispenser containment or submersible pump containment on an underground storage tank system as required by rules 335-6-15-.03, 335-6-15-.06, and 335-6-15-.09;

4. Compatibility, and repair requirements on an underground storage tank system as required by rules 335-6-15-.11 and 335-6-15-.12;

5. Submittal of documentation or reports relating to spill prevention, overfill prevention, leak detection, corrosion protection, under dispenser containment, submersible pump containment, compatibility and repairs for an underground storage tank system within the time frame required by this chapter or within a reasonable time frame upon request by the Department;

6. Payment of the yearly underground storage tank regulation fee in accordance with rule 335-6-15-.42;

7. Taking appropriate action in response to a release or suspected release of product as outlined by rules 335-6-15-.20 through 335-6-15-.25; or

8. Investigation, and/or clean up a release from an underground storage tank system in a timely manner, in accordance with rules 335-6-15-.26 through 335-6-15-.30 and 335-6-15-.35.

9. Training of operators of UST systems in accordance with rule 335-6-15-.46.

10. Use of an individual or individuals certified by a Department approved certifying organization to exercise supervisory control over installation, closure, and repair of UST systems in accordance with rule 335-6-15-.47.

(www) "Storm-water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

(xxx) "Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

(yyy) "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

(zzz) "Training program" means any program that provides information to and evaluates the knowledge of a Class A, Class B, or Class C operator through testing, practical demonstration, or another approach acceptable to the Department regarding requirements for UST systems that meet the requirements of rule 335-6-15-.46.

(aaaa) "Under dispenser containment" means containment underneath a dispenser system designed to prevent leaks from the dispenser and underground piping within or above the under dispenser containment from reaching soil or groundwater.

(bbbb) "Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

(cccc) "Underground release" means any belowground release.

(dddd) "Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. This term does not include any:

1. Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

2. Tank used for storing heating oil for consumptive use on the premises where stored;

3. Septic tank;

4. Pipeline facility (including gathering lines):

(i) Which is regulated under chapter 601 of Title 49, or

(ii) Which is an intrastate pipeline facility regulated under state laws as provided in chapter 601 of Title 49, and which is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline, or

(iii) State of Alabama laws comparable to the provisions of law in subparagraph (dddd)4.(i) or (ii) above;

5. Surface impoundment, pit, pond, or lagoon;

6. Storm-water or wastewater collection system;

7. Flow-through process tank;

8. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

9. Storage tank situated in an underground area (such as a basement cellar, mine working, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

10. Other tanks exempted by the administrator of the United States Environmental Protection Agency; and

11. Piping connected to any of the above exemptions.

(eeee) "Underground storage tank facility" is a single site or location containing one or more underground storage tank systems.

(ffff) "Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overflow controls to improve the ability of an underground storage tank system to prevent the release of product.

(gggg) "UST system" or "Underground Storage Tank system" means an underground storage tank, connected to and including underground piping, underground ancillary equipment, and containment system, if any, as well as underground vent, vapor recovery, or fill lines.

(hhhh) "Wastewater treatment tank" means an underground tank that is designated to receive and treat an influent wastewater through physical, chemical, or biological methods.

(iiii) "Waters" means all waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the state of Alabama, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership or corporation unless such waters are used in interstate commerce.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Vernon H. Crockett](#).

**Statutory Authority:** Code of Alabama 1975, §§ 22-36-2, 22-36-3.

**History** April 5, 1989.

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### **335-6-15-.03 Applicability.**

(1) The requirements of this chapter apply to all owners and operators of an UST system as defined in rule 335-6-15-.02 except as otherwise provided for in paragraphs (2) and (3) of this rule.

(a) Previously deferred UST systems. UST systems with field-constructed tanks, UST systems with airport hydrant fuel distribution systems, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of this part as follows:

1. UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems must meet the requirements in rule 335-6-15-.48.

2. UST systems that store fuel solely for use by emergency power generators installed before August 6, 2007 must meet rules 335-6-15-.14 through 335-6-15-.19 on or before December 8, 2020.

3. UST systems that store fuel solely for use by emergency power generators installed on or after August 6, 2007 must meet all applicable requirements of rules 335-6-15-.14 through 335-6-15-.19 at installation.

4. If UST systems installed before August 6, 2007 that store fuel solely for use by emergency power generators have new underground piping installed on or after August 6, 2007, the new underground piping is subject to all the rules in this chapter.

(2) Exclusions. The following UST systems are excluded from the requirements of this chapter:

(a) Any UST system holding hazardous wastes listed or identified under Division 14 of the ADEM Administrative Code, or a mixture of such hazardous wastes and other regulated substances.

(b) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under chapter 335-6-5 or 335-6-6 of the ADEM Administrative Code.

(c) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(d) Any UST system whose capacity is 110 gallons or less.

(e) Any UST system that contains a de minimis concentration of regulated substances.

(f) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

(3) Partial Exclusions. The following UST systems are only subject to rules 335-6-15-.04, 335-6-15-.20 through 335-6-15-.32, and 335-6-15-.43:

(a) Wastewater treatment tank systems not covered in subparagraph (2)(b) of this rule;

(b) Aboveground storage tanks associated with:

1. UST systems with airport hydrant fuel distribution systems regulated under rule 335-6-15-.48; and

2. UST systems with field-constructed tanks regulated under rule 335-6-15-.48;

(c) Any UST system containing radioactive materials that are regulated under the Atomic Energy Act of 1954 (42 USC 2011 and following); and

(d) Any UST system that is part of an emergency generator system at nuclear power generation facilities licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to 10 CFR part 50.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Vernon H. Crockett](#).

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**335-6-15-.07 Upgrading of Existing UST Systems.** Owners and operators must permanently close (in accordance with rules 335-6-15-.34 through 335-6-15-.39) any UST system that does not meet the new UST system performance standards in rule 335-6-15-.06 or has not been upgraded in accordance with subparagraphs (b) through (d) of this rule. This does not apply to previously deferred UST systems described in rule 335-6-15-.48 and where an upgrade is determined to be appropriate by the Department.

(a) Alternatives Allowed. All existing UST systems must comply with one of the following requirements:

1. New UST system performance standards under rule 335-6-15-.06;
2. The upgrading requirements in subparagraphs (b) through (d) of this rule; or
3. Closure requirements under rules 335-6-15-.34 through 335-6-15-.39, including applicable requirements for corrective action under rules 335-6-15-.25 through 335-6-15-.32+.

(b) Underground Storage Tanks Upgrading Requirements. Metal underground storage tanks must have been cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory that meet the requirements of rule 335-6-15-.06(a)2.(ii), (iii) and (iv), and have the integrity of the underground storage tank ensured using one of the following methods:

1. The underground storage tank was internally inspected and assessed to ensure that the tank was structurally sound and free of corrosion holes prior to installing the cathodic protection system; or
2. The underground storage tank had been installed for less than 10 years and is monitored for releases at least every 30 days in accordance with rule 335-6-15-.17(d) through (i); or
3. The underground storage tank had been installed for less than 10 years and was assessed for corrosion holes by conducting two tightness tests that meet the requirements of rule 335-6-15-.17(c). The first tightness test must have been conducted prior to installing the cathodic protection system. The second tightness test must have been conducted between three and six months following the first operation of the cathodic protection system; or
4. The underground storage tank was assessed for corrosion holes by a method that is determined by the Department to prevent releases in a manner that is no less protective of human health and the environment than the requirements of subparagraphs (b)1. through 3. of this rule.

(c) Piping Upgrading Requirements. Metal underground piping that routinely contains regulated substances and is in contact with the ground, as well as the metal outer wall of double wall underground piping which is in contact with the ground, must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, and must meet the requirements of rule 335-6-15-.06(b)2.(ii), (iii), and (iv).

(d) Spill and Overfill Prevention Equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with new UST system spill and overfill prevention equipment requirements specified in rule 335-6-15-.06(c).

**Author:** Sonja Massey, Curt Johnson, Lee Davis, Vernon H. Crockett.

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

**History:** April 5, 1989.

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### **335-6-15-.08 Plans and Specifications.**

(1) Submission of Plans. The Department may require the submission of plans, specifications, and other technical data pursuant to rule 335-6-15-.06, 335-6-15-.07, or any other requirement by the Department relating to the construction of UST systems, upgrading of UST systems, installation of release detection equipment, corrosion protection measures, or engineering design related to the implementation of a corrective action plan.

(a) Plans and specifications shall be submitted at least 30 days prior to the anticipated date of construction or installation.

(b) Where plans and specifications are not required, a notification of installation shall be submitted 30 days prior to the anticipated date of installation.

(c) Plan and specification submissions shall be in a form which is acceptable to the Department.

(d) The Department may require modification of submitted plans and specifications, where necessary, to demonstrate compliance with applicable requirements.

(2) Preparation of Plans, Specifications, and Technical Data. Plans, specifications, and technical data submitted to the Department for review shall be signed and sealed by an Alabama licensed professional engineer or an Alabama licensed professional geologist, as appropriate, bear the seal or number of a professional engineer, in accordance with StateAlabama law concerning engineering these practices, and who is competent to perform work in thesethis fieldsof engineering.

(3) Plans and specifications submitted for construction and upgrading of UST systems shall, where applicable, adequately describe:

(a) Site sketch with boundaries and structures approximately to scale.

(b) Underground storage tank excavation dimensions and location.

(c) Underground storage tank capacity, dimensions, materials of construction, and material to be stored, and whether of single or double wall construction.

(d) Type and size of backfill material.

(e) Depth of backfill to be placed under the underground storage tank.

(f) Water table data for the site, including the annual high and low water table elevations as determined from nearby water supply wells, piezometers, or other available hydrogeologic data.

(g) Supports and anchorage design if applicable.



(h) Underground piping dimensions, materials of construction, layout, location of dispensers, and slope of underground piping for suction systems.

(i) Release detection method to be used, to include:

1. Number, location and construction details for any monitoring wells, whether for groundwater monitoring, vapor monitoring or monitoring of an interstitial space.

2. Description of and manufacturer's performance specifications for any continuous monitoring equipment to be used where required by the Department.

3. For non-continuous monitoring, (other than manual sampling of groundwater monitoring wells), a description of and manufacturer's performance specifications for the type of equipment to be used where required by the Department.

4. Manufacturer specifications for any secondary barrier to be used in interstitial monitoring.

(j) Wiring and conduit associated with monitoring systems.

(k) Information regarding the cathodic protection method to be used, to include:

1. Design plans and specifications for field installed cathodic protection systems shall be submitted to the Department for approval at least 30 days prior to the anticipated date of installation and must include, at a minimum:

(i) Type of cathodic protection, galvanic or impressed current.

(ii) Test or monitoring station for cathodic protection system.

(iii) Location and weight of sacrificial anodes.

(iv) The corrosion expert responsible for the design of a field installed cathodic protection system.

(v) Calculations of the:

(I) Surface area to be protected,

(II) Current required,

(III) Number of anodes required, and

(IV) Rectifier rating.

(vi) Material list including a description of the:

- (I) Rectifier,
  - (II) Anodes,
  - (III) Anode wiring,
  - (IV) Negative ground wires,
  - (V) Grounding mechanism,
  - (VI) Shunt box, and
  - (VII) Other materials to be used.
- (vii) Drawing providing the location of the:
- (I) Tanks,
  - (II) Anodes,
  - (III) Anode wiring,
  - (IV) Ground wiring,
  - (V) Rectifier box, and
  - (VI) Shunt box.
- (l) Spill and overflow containment devices.
- (m) For groundwater monitoring well systems, the hydraulic conductivity of the soils in which the monitoring wells will be placed.
- (n) Type of secondary containment, where applicable.
- (o) Whether or not the UST system will be within 300 feet of a private domestic water supply or 1000 feet of a public water supply well.
- (p) Any other information that may be required by the Department.
- (4) Existing Systems. When plans and specifications are submitted for existing systems, all available information should be submitted regarding the above items.
- (5) Modifications or Alterations. Any proposed modification or alteration of plans, specifications, or technical data previously submitted to and reviewed by the Department which could affect the UST system's compliance with this chapter must also be forwarded to the Department for review.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, David Batchelor, [Vernon H. Crockett](#).

**Statutory Authority:** Code of Alabama 1975, §§ 22-36-3, 22-36-4.

**History:** April 5, 1989.

**Amended:** August 6, 2007; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**335-6-15-.09 Operation, Maintenance, and Testing or Inspection of Spill and Overfill Prevention Equipment and Containment Systems; and Walkthrough Inspections.**

(1) Owners and operators of UST systems must comply with the following operation, maintenance, and testing or inspection requirements for spill prevention equipment, overfill prevention equipment, and containment sumps and sensors to ensure that releases due to leaking, spilling or overfilling do not occur; submit testing and inspection results in accordance with rule 335-6-15-.13(a)5.; and keep testing and inspection records in accordance with rule 335-6-15-.13(b)5.; unless a UST system is temporarily closed in accordance with rule 335-6-15-.33.

(a) Spill Prevention Equipment. Spill prevention equipment must be periodically checked in accordance with the walkthrough inspection requirements in paragraph (2) of this rule and meet the following requirements:

1. Single walled spill prevention equipment shall be tested for leakage to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing at least once every three years, or upon repair or replacement, using one of the following options:

(i) Testing requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements);

(ii) Test methods from a code of practice developed by a nationally recognized association or independent testing laboratory; or

(iii) Testing requirements determined by the Department to be no less protective of human health and the environment than the testing requirements listed in subparagraphs (1)(a)1.(i) and (ii) of this rule.

2. Double walled spill prevention equipment with an interstitial space shall have the integrity of both walls periodically checked in accordance with the walkthrough inspection requirements in paragraph (2) of this rule. If this periodic checking is discontinued, owners and operators must begin using one of the testing options provided for single walled spill catchment basins in subparagraph (1)(a)1. of this rule and conduct a test within 30 days.

3. Spill prevention equipment must be emptied before the transfer of regulated substance to the underground storage tank so that all the volume is available to contain a spill. If a breach in the spill prevention equipment is visible or if a spill prevention equipment leak test fails, it must be repaired or replaced, and retested prior to receiving any further deliveries of a regulated substance.

4. When a regulated substance is being released or is suspected to have been released from spill prevention equipment to the surrounding surface or subsurface, notify the Department of a suspected release in accordance with rule 335-6-15-.20.

(b) Overfill Prevention Equipment. Overfill prevention equipment in use before December 8, 2017, shall be inspected not later than December 8, 2020 and at least once every three years thereafter; when brought into use on or after December 8, 2017, shall be inspected upon installation and at least once every three years thereafter; and must meet the following inspection requirements:

1. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in rule 335-6-15-.06(c)2. and will activate when regulated substance reaches that level. Inspections must be conducted using one of the following options:

(i) Inspection requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements);

(ii) Inspection methods from a code of practice developed by a nationally recognized association or independent testing laboratory; or

(iii) Inspection requirements determined by the Department to be no less protective of human health and the environment than the inspection requirements listed in subparagraphs (1)(b)1.(i) and (ii) of this rule.

2. Owners and operators must ensure that the volume available in the underground storage tank is greater than the volume of product to be transferred to the underground storage tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

(c) Under Dispenser, Submersible Pump, and Other UST System Containment Sumps. These containment sumps must be periodically checked in accordance with the walkthrough inspection requirements in paragraph (2) of this rule and meet the following requirements:

1. When a regulated substance is discovered in a containment sump:

(i) Remove the regulated substance within 24 hours; any regulated substance which is removed must be disposed of in accordance with all state of Alabama requirements; and

(ii) Repair or replace any necessary equipment to prevent further leakage of regulated substance into the containment sump within a time period acceptable to the Department, and immediately after repair or replacement, test the sump for leakage to ensure it is liquid tight in accordance with one of the vacuum, pressure, or liquid testing options provided in subparagraphs (1)(a)1.(i),(ii), (iii) of this rule within a time period acceptable to the Department.

2. When a regulated substance is being released or is suspected to have been released from a containment sump to the surrounding surface or subsurface:

(i) Shut off the submersible pump; and

(ii) Notify the Department of a suspected release in accordance with rule 335-6-15-.20.

3. Containment sumps used for interstitial monitoring of underground piping must be maintained so that they continuously remain free of water, regulated substance and debris,

4. The operation of any liquid sensors in a containment sump used for interstitial monitoring of underground piping must be tested annually to ensure that they are working properly. Beginning December 8, 2017, testing must be conducted in accordance with one of the testing options provided in subparagraphs (1)(a)1.(i),(ii), (iii) of this rule.

5. Breaches discovered in a containment sumps used for interstitial monitoring of underground piping which may result in a release of a regulated substance must immediately be repaired or the containment sump replaced. After repair or replacement, the containment sump must be tested using a vacuum, pressure or liquid method in accordance with one of the options provided in subparagraphs (1)(a)1.(i), (ii), or (iii) of this rule to ensure the sump is liquid tight.

6. Beginning December 8, 2020 for UST systems in use before December 8, 2017 and beginning upon installation for UST systems brought into use on or after December 8, 2017, all containment sumps used for interstitial monitoring of underground piping must prevent releases to the environment by meeting one of the following:

(i) To ensure single walled containment sumps used for interstitial monitoring of underground piping are liquid tight, those installed prior to December 8, 2017 must have an initial test not later than December 8, 2020 and must be tested at least once every three years thereafter, and those brought into use on or after the December 8, 2017 must be tested upon installation and be tested at least once every three years thereafter. Testing must be conducted using a vacuum, pressure, or liquid method in accordance with one of the options provided in subparagraphs (1)(a)1.(i), (ii), or (iii) of this rule; or

(ii) When containment sumps used for interstitial monitoring of underground piping are double walled, the integrity of both walls must be periodically checked in accordance with the walkthrough inspection requirements in subparagraph (2) of this rule. If this periodic checking is discontinued, owners and operators must begin using one of the testing options provided for single walled containment sumps in subparagraph (1)(c)6.(i) of this rule and conduct a test within 30 days.

(2) Walkthrough Inspections. To properly operate and maintain UST systems, owners and operators of UST systems must conduct walkthrough inspections beginning not later than October 13, 2018 and thereafter. Conduct walkthrough inspections in accordance with either subparagraphs (2)(a), and

(2)(b) or (c) of this rule and keep inspection records in accordance with rule 335-6-15-.13(b)11., unless a UST system is temporarily closed in accordance with rule 335-6-15-.33.

(a) Conduct a walkthrough inspection that, at a minimum, checks the following equipment as specified in subparagraphs (2)(a)1. and 2. of this rule:

1. Every 30 days (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery):

(i) Visually check spill prevention equipment for damage; remove liquid or debris; check for and remove obstructions in the fill pipe; check the fill cap to make sure it is securely on the fill pipe; and for double walled spill prevention equipment with interstitial monitoring, also check the integrity of both walls by checking for leakage in the interstitial space, and

(ii) Check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present; and ensure records of release detection testing are reviewed, passing and current, and

2. Annually:

(i) Visually check all containment sumps for damage or leaks to the containment area, or releases to the environment, and remove liquid or debris; and for double walled sumps with interstitial monitoring, also check the integrity of both walls by checking for leakage in the interstitial space, and

(ii) Check hand held release detection equipment devices such as tank gauge sticks or groundwater bailers for operability and serviceability;

(b) Conduct operation and maintenance walkthrough inspections according to a standard code of practice developed by a nationally recognized association or independent testing laboratory that checks equipment comparable to that indicated in subparagraph (2)(a) of this rule; or

(c) Conduct operation and maintenance walkthrough inspections developed by the Department that checks equipment comparable to that indicated in subparagraph (2)(a) of this rule.

(3) The owner and operator must report, investigate, and clean up any leaks, spills and overfills in accordance with rule 335-6-15-.23.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Latoya Hall](#).

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

**History:** Effective: April 5, 1989; **Amended:** Effective: August 6, 2007;

**Amended:** Effective: January 16, 2012; **Amended:** Effective: April 1, 2014;

**Amended:** Effective: December 8, 2017; **Amended:** Filed: October 23, 2018;  
Effective: December 7, 2018 **Proposed:** November 18, 2021.



**335-6-15-.10 Operation and Maintenance of Corrosion Protection.** All owners and operators of metal UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented until the UST system is permanently closed or undergoes change-in-service in accordance with rule 335-6-15-.34:

(a) All corrosion protection systems must be operated, maintained, inspected and tested to continuously provide and demonstrate corrosion protection of the metal components of that portion of the underground storage tank and underground piping that routinely contain regulated substances and are in contact with the ground, as well as the metal outer wall of double wall underground storage tanks and underground piping which are in contact with the ground. Operating UST systems for which impressed current cathodic protection has not been adequately operated and maintained to provide corrosion protection for a continuous period of 12 months must be either:

1. Internally inspected and found to be structurally sound in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory, or
2. Permanently closed within 90 days from the end of this 12-month period in accordance with rules 335-6-15-.34 and 335-6-15-.35.

(b) All UST systems equipped with cathodic protection systems must be inspected and tested for proper operation by a qualified cathodic protection tester who maintains current certification in accordance with the requirements in rule 335-6-15-.02(hg), in accordance with the following requirements:

1. Frequency. All cathodic protection systems must be inspected and tested within 30 days of installation and at least every three years thereafter; and
2. Inspection and Testing Criteria. The criteria that are used to determine that cathodic protection is adequate as required by subparagraphs (a) and (b) of this rule must be in accordance with the most current version of codes of practice established by NACE International and STI/SPFA (Steel Tank Institute/Steel Plate Fabricators Association).

(c) UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is operating properly.

(d) For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained in accordance with rule 335-6-15-.13 to demonstrate compliance with the performance standards in this section. These records must provide the following:

1. The results of the last three inspections or checks required in subparagraph (c) of this rule; and

2. The results of testing from the last two tests required in subparagraph (b) of this rule.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Vernon H. Crockett](#).

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

**History:** April 5, 1989.

**Amended:** November 24, 2009; **Amended:** January 16, 2012; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**335-6-15-.12 Repairs Allowed.** Owners and operators of UST systems must ensure the repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

(a) Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory and in accordance with the requirements in rule 335-6-15-.47.

(b) Repairs to fiberglass-reinforced plastic underground storage tanks must be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

(c) Metal underground pipe sections and fittings that have released product as a result of corrosion or other damage must be permanently closed in accordance with rules 335-6-15-.34 through 335-6-15-.37 and new underground piping installed in accordance with rule 335-6-15-.06(b). Repairs to nonmetallic fiberglass-reinforced plastic (rigid) or nonmetallic thermoplastic (flexible) underground piping and fittings must be made in accordance with the manufacturer's specifications. Materials used to repair the underground piping must be in accordance with rule 335-6-15-.06(b)1.

(d) Repairs may be made to existing underground piping only if one repair of less than 5 ft can be made to one run of underground piping within a 30 day period. Otherwise, for a given underground piping run, underground piping must be installed in accordance with rule 335-6-15-.06(b).

(e) Repaired underground storage tanks and underground piping must be tightness tested in accordance with rules 335-6-15-.17(c) and 335-6-15-.18(b) prior to returning the underground storage tanks or underground piping to service or within 30 days following the date of the completion of the repair, whichever comes first.

(f) Repairs to secondary containment areas of underground storage tanks and underground piping used for interstitial monitoring and to containment sumps used for interstitial monitoring of underground piping must have the secondary containment tested for tightness in accordance with the manufacturer's instructions or a code of practice developed by a nationally recognized association or independent testing laboratory within 30 days following the date of completion of the repair.

(g) Within 30 days following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with rule 335-6-15-.10(b) and (c) to ensure that it is operating properly.

(h) Within 30 days following any repair to spill or overfill prevention equipment, the repaired spill or overfill prevention equipment must be tested or

inspected, as appropriate, in accordance with rule 335-6-15-.~~09(1)(a) and (b)~~13(b)2. to ensure it is operating properly.

(i) UST system owners and operators must maintain records in accordance with rule 335-6-15-.13(b)2. for each repair until the UST system is permanently closed or undergoes a change-in-service in accordance with rules 335-6-15-.34 through 335-6-15-.37.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Vernon H. Crockett](#).

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

**History:** April 5, 1989.

**Amended:** January 10, 2006; **Amended:** August 6, 2007; **Amended:** January 16, 2012; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**335-6-15-.14 General Release Detection Requirements for All UST Systems.**

(1) Owners and operators of UST systems must provide a method, or combination of methods, of release detection that:

(a) Can detect a release from any portion of the underground storage tank and the connected underground piping that routinely contains product;

(b) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition;

(c) Is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the Department to be no less protective of human health and the environment than the two options listed above. A test of the proper operation must be performed at least annually and must cover the following components and criteria:

1. Automatic Tank Gauge and Other Controllers. Beginning on October 13, 2018 and thereafter; test alarm, verify system configuration, test battery backup;

2. Probes and Sensors. Beginning on October 13, 2018 and thereafter; inspect for residual buildup, ensure floats move freely, ensure shaft is not damaged, ensure cables are free of kinks and breaks, test alarm operability and communication with controller, ensure that they are positioned properly;

3. Automatic Line Leak Detector. Test operation to meet criteria in rule 335-6-15-.18(a) by simulating a leak;

4. Vacuum Pumps and Pressure Gauges. Beginning on October 13, 2018 and thereafter; ensure proper communication with sensors and controller; and

5. Hand-held Electronic Sampling Equipment Associated with Groundwater and Vapor Monitoring. Beginning on October 13, 2018 and thereafter; ensure proper calibration and operation.

6. Any release detection component that fails an operational test must be repaired or replaced and retested within 30 days of the repair.

(d) Meets the performance requirements in rules 335-6-15-.17, 335-6-15-.18, or 335-6-15-.48, as applicable, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, the methods must be capable of detecting the leak rate or quantity specified for that method in rules 335-6-15-.17(b), (c), (d), (h) and (i),

335-6-15-.18(a) and (b), and 335-6-.48 with a probability of detection of 0.95 and a probability of false alarm of 0.05.

(2) When a release detection method operated in accordance with the performance standards in rules 335-6-15-.17, 335-6-15-.18, or 335-6-15-.48 indicates a release may have occurred, owners and operators must notify the Department in accordance with rule 335-6-15-.20.

(3) Any UST system that cannot apply a method of release detection that complies with the requirements of this chapter must temporarily close the UST system in accordance with rule 335-6-15-.33 and must permanently close the UST system in accordance with rules 335-6-15-.34 through 335-6-15-.37 except as follows:

(a) For UST systems storing fuel solely for the use of emergency power generators installed before August 6, 2007, paragraph (3) of this rule applies beginning on December 8, 2020 and thereafter. For UST systems with field-constructed tanks, and UST systems with airport hydrant fuel distribution systems, paragraph (3) of this rule applies beginning on October 13, 2018 and thereafter.

(4) Owners or operators of UST systems storing fuel solely for the use of emergency power generators installed before August 6, 2007, UST systems with airport hydrant fuel distribution systems, and UST systems with field-constructed tanks shall submit to the Department a description of the type of release detection method or methods which will be used at each site at which the UST system is located. This description and any required plans and specifications required by rule 335-6-15-.08 shall be submitted 30 days prior to the implementation of release detection requirements for these systems as described in rules 335-6-15-.03(1)(a)1. and 2.

(5) Release detection on UST systems employing vapor monitoring, groundwater monitoring, or interstitial monitoring using a secondary barrier, shall be installed in accordance with the plans and specifications required by rule 335-6-15-.08.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Vernon H. Crockett](#).

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

**History:** Effective: April 5, 1989. **Amended:** Effective: October 2, 2003;

**Amended:** Effective: April 25, 2008; **Amended:** Effective: December 8, 2017;

**Amended:** Filed: October 23, 2018; Effective: December 7, 2018; **Proposed:** November 18, 2021.

**335-6-15-.17 Methods of Release Detection for Underground Storage Tanks.** Each method of release detection for underground storage tanks used to meet the requirements of rule 335-6-15-.15 must be conducted in accordance with the applicable requirements (a) through (i) of this rule. The Department may make a determination as to the capability of release detection equipment to meet the requirements of this rule.

(a) Inventory Control. Product inventory control (or another test of equivalent performance) must be conducted at least every 30 days to detect a loss or gain of at least 1.0 percent of flow-through plus 130 gallons on a 30 day basis in the following manner:

1. Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the underground storage tank are recorded each operating day;

2. The equipment used is capable of measuring the level of product over the full range of the underground storage tank's height to the nearest one-eighth of an inch;

3. The regulated substance inputs are reconciled with delivery receipts by measurement of the underground storage tank inventory volume before and after delivery;

4. Deliveries are made through a drop tube that extends to within one foot of the underground storage tank bottom;

5. Product dispensing is metered and recorded within the local standards for meter calibration or an accuracy of 6 cubic inches for every 5 gallons of product withdrawn; and

6. The measurement of any water or phase separated entrained water level in the bottom of the underground storage tank is made to the nearest one-eighth of an inch at least once every 30 days.

(b) Manual Tank Gauging. Manual tank gauging must meet the following requirements:

1. Underground storage tank liquid level measurements are taken at the beginning and ending of a period using the appropriate minimum duration of test value in the table shown in subparagraph (b)4. of this rule, during which no liquid is added to or removed from the underground storage tank;

2. Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

3. The equipment used is capable of measuring the level of product over the full range of the underground storage tank's height to the nearest one-eighth of an inch;

4. A release is suspected and subject to the requirements of rules 335-6-15-.20 through 335-6-15-.23 if the variation between beginning and ending measurements exceed the weekly or 30 day standards in the following table:

<b>Nominal Underground Storage Tank Capacity</b>	<b>Minimum Duration of Test</b>	<b>Weekly Standard (one test)</b>	<b>30 day Standard (average of 4 tests)</b>
up to 550 gallons	36 hours	10 gallons	5 gallons
551-1,000 gallons (when underground storage tank diameter is 64")	44 hours	9 gallons	4 gallons
551-1,000 gallons (when underground storage tank diameter is 48")	58 hours	12 gallons	6 gallons
<u>551-1,000 gallons (also requires periodic tank tightness testing)</u>	<u>36 hours</u>	<u>13 gallons</u>	<u>7 gallons</u>
<u>1,001-2,000 gallons (also requires periodic tank tightness testing)</u>	<u>36 hours</u>	<u>26 gallons</u>	<u>13 gallons</u>

5. ~~(b)~~ Tanks of 550 gallons or less nominal capacity and tanks with a nominal capacity of 551 to 1,000 gallons that meet the tank diameter criteria in the table in paragraph (b)4 of this rule may use this as the sole method of release detection. All Emergency Power Generator tanks with a nominal capacity of 551 to 2,000 gallons may use the method in place of inventory control in paragraph (a) of this rule. Only underground storage tanks of 550 gallons or less nominal capacity, and underground storage tanks with a nominal capacity of 551 to 1,000 gallons that meet the underground storage tank diameter criteria in the table in above subparagraph (b)4. of this rule, may use this as a method of release detection.

(c) Tank Tightness Testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the underground storage tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, underground storage tank deformation, evaporation or condensation, and the location of the water table.

1. The test must be performed by an individual having current certification of training from the manufacturer of the test method.

2. Unless waived by the Department the report of tightness testing of an underground storage tank must state whether or not the water table was



above the base of the underground storage tank excavation pit at the time of testing and the method by which this determination was made. If it is above the base, the specific elevation of the water table shall be determined and recorded in the test report.

(d) Automatic Tank Gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

1. The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the underground storage tank that routinely contains product;

2. The automatic tank gauging equipment must meet the inventory control requirements of subparagraph (a)6. of this rule (or other test of equivalent performance); and

3. The test must be performed with the equipment operating in one of the following modes:

(i) In-tank static testing conducted at least once every 30 days; or

(ii) Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the equipment to gather incremental measurements to determine the leak status of the underground storage tank at least once every 30 days.

(e) Vapor Monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following technical and procedural requirements:

1. A vapor monitoring plan with any required plans and specifications, must be submitted to the Department for review by the Department. The plan must be sufficient to demonstrate compliance with the requirements of subparagraphs (e)2. through 8. of this rule or modifications may be required by the Department.

2. The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

3. The stored regulated substance, or a tracer compound placed in the UST system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the underground storage tank. The Department may require testing of a vapor monitoring system with a tracer compound where a system's reliability is in question.

4. The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

5. The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the UST system based upon information, to include volatile hydrocarbon concentrations, collected throughout the excavation zone where this method is proposed for use.

6. The vapor monitors and vapor monitoring wells are designed and operated in a manner sufficient to: detect any significant increase in concentration above background of the regulated substance stored in the UST system, a component or components of that substance, or a tracer compound placed in the UST system, and provide a vapor sample to the vapor monitor that is representative of the concentration in the excavation zone. Construction details shall comply with subparagraphs (e)7. through 13. of this rule.

7. The well casing shall be constructed of a material which is compatible with the substance stored; and which has sufficient strength to prevent structural failure.

8. The well casing shall be a minimum of 2 inches in diameter and shall be large enough for the chosen monitoring device to be installed or operated properly in the well. A low permeability backfill may require the use of larger diameter casing.

9. The length and slot size of the slotted portion of the casing should be sufficient to obtain a representative vapor sample in accordance with the depth of excavation zone and site hydrogeology.

10. The well screen should be surrounded by a clean filter pack which allows for passage of vapors while preventing passage of materials which could clog the well screen. The filter pack should extend 1 to 2 feet above the well screen.

11. An annular seal shall extend up from the top of the filter pack for 1 to 2 feet.

12. The well annulus shall be grouted from the top of the bentonite to the ground surface.

13. Monitoring wells shall have a watertight cap or enclosure at the ground surface.

14. In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subparagraphs (e)2. through 5. of this rule and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the underground storage tank that routinely contains product;

15. Vapor monitoring wells are clearly marked with the wording "NOT FOR DELIVERIES" or other sufficient language and locked to avoid unauthorized access and tampering. Monitoring wells which are located in an area subject to traffic must be equipped with enclosures which will not be damaged by normal traffic.

16. In the event of permanent closure of the UST system, all monitoring wells shall be closed according to a method acceptable to the Department, unless otherwise directed by the Department.

17. If a monitoring well is determined to be improperly constructed, closure may be required according to a method acceptable to the Department.

(f) Groundwater Monitoring. Testing or monitoring for liquids on the groundwater must meet the following technical and procedural requirements:

1. A groundwater monitoring plan with any required plans and specifications must be submitted for review. The plan must be sufficient to demonstrate that the requirements of subparagraphs (f)2. through 20. of this rule will be complied with or modifications may be required by the Department.

2. The regulated substance stored is immiscible in water and has a specific gravity of less than one;

3. The level of background contamination in or near the excavation zone will not interfere with the method used to detect releases from the UST system based upon information collected throughout the excavation zone and in the proposed area of well placement if not in the excavation zone;

4. Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);

5. Monitoring wells used for the purpose of release detection by groundwater monitoring shall be constructed according to the requirements of subparagraphs (f)6. through 15. and 20. of this rule;

6. The well casing shall be a minimum of 2 inches in diameter when used for release detection. Monitoring wells installed for investigations may range from 1" to 2" and wells, but shall be 4 inches in diameter if installed for corrective action. All wells shall be constructed with only threaded connections between sections;

7. The well casing shall be constructed of a material which is compatible with the substance stored; and which has sufficient strength to prevent structural failure;

8. The well casing shall be slotted from the bottom to at least two feet above the normal annual high water table where the depth to water will allow, and shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of a regulated substance on the water table into the well under both high and low groundwater conditions;

9. The well casing shall extend at least five feet below the water level at the time of drilling but no deeper than 25 feet;

10. The well annulus shall be backfilled with an appropriate clean filter pack adjacent to the slotted casing;

11. An annular seal shall extend from the top of the filter pack for 2 to 5 feet, where the depth to water will allow;

12. The well annulus shall be grouted from the top of the bentonite seal to the ground surface;

13. Monitoring wells shall have a watertight enclosure or cap with a grouted collar at the ground surface;

14. Monitoring wells shall be developed upon drilling until the water is clear and relatively sand free by over pumping, bailing, or surging with compressed air;

15. Monitoring wells shall be as close to the excavation zone as is technically feasible. If a monitoring well is located within the excavation zone, the base of the excavation zone shall not be penetrated;

16. If a continuous monitoring device is not used, manual monitoring shall consist of removal of fluid from the well, using a bailer, or a sampler of similar design. The fluid shall be taken from the surface of the water table. The fluid shall:

(i) Be poured into a clean, clear glass container kept for the purpose, and examined for signs of an oily layer or odor of pollutant; or

(ii) Be tested at the site; or

(iii) Be sent to a laboratory and tested.

17. A monitoring well must contain at least 6 inches of water or a sufficient depth to allow a sample to be obtained using a sampler selected in accordance with subparagraph (f)16. of this rule. If this requirement cannot be met for more than 30 days, the Department may require the monitoring well to be replaced, or another method of monitoring to be proposed to the Department for review;

18. The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;

19. Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subparagraphs (f)2. through 15. of this rule and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the UST system that routinely contains product. This is to include an evaluation of the direction of the groundwater gradient at a site;

20. Monitoring wells are clearly marked with the wording "NOT FOR DELIVERIES" or other sufficient language and locked to avoid unauthorized access and tampering. Monitoring wells which are located in an area subject to traffic must be equipped with enclosures which will not be damaged by normal traffic;

21. In the event of permanent closure of the UST system, all monitoring wells shall be closed according to a method acceptable to the Department; and

22. If a monitoring well is determined by the Department to be improperly constructed, closure may be required according to a method acceptable to the Department.

23. Existing groundwater monitoring wells which were completed prior to April 5, 1989 will be authorized for continued use if the Department determines that the minimum criteria of the federal UST regulations for monitoring wells are satisfied and the existing wells do not pose a threat of groundwater contamination due to poor construction.

(g) Interstitial Monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the underground storage tank that routinely contains product and also meets one of the following requirements:

1. For double walled UST systems, the sampling or testing method can detect a leak through the inner wall in any portion of the underground storage tank that routinely contains product;

2. For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can in the determination of the Department, detect a leak between the UST system and the secondary barrier;

(i) The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least  $10^{-6}$  cm/sec for the regulated substance stored) to direct a leak to the monitoring point and permit its detection;

(ii) The barrier is compatible with the regulated substance stored so that a leak from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

(iii) For cathodically protected underground storage tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

(iv) The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;

(v) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions;

(vi) Monitoring wells are clearly marked with the wording "NOT FOR DELIVERIES" or other sufficient language and locked to avoid unauthorized access and tampering; and when located in areas which are subject to traffic must be equipped with enclosures which will not be damaged by normal traffic; and

(vii) Monitoring wells extend to within 6 inches of the secondary barrier but shall not contact the barrier.

3. For underground storage tanks with an internally fitted liner, an automated device can detect a leak between the inner wall of the underground storage tank and the liner, and the liner is compatible with the substance stored.

(h) Statistical inventory reconciliation. Release detection methods based on the application of statistical principles to inventory data similar to those described in paragraph (a) of this rule must meet the following requirements:

1. Report a quantitative result with a calculated leak rate;

2. Be capable of detecting a leak rate of 0.2 gallon per hour or a release of 150 gallons within 30 days;

3. Use a threshold that does not exceed one-half the minimum detectible leak rate; and

4. Meet the inventory control requirements of subparagraphs (a)1. through 6. of this rule.

(i) Other methods. Any other type of release detection method, or combination of methods may be approved by the Department if:

1. It can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within 30 days with a probability of detection of 0.95 and a probability of false alarm of 0.05; or

2. The owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subparagraphs (c) through (h) above. In comparing methods, the Department shall consider the

size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed by the Department on its use to ensure the protection of human health and the environment.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Latoya Hall](#), [Dorothy Malaier](#).

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

**History:** April 5, 1989.

**Amended:** August 6, 2007; **Amended:** April 25, 2008; **Amended:** January 16, 2012; **Amended:** April 1, 2014; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**335-6-15-.22 Release Investigation and Confirmation Steps.** Unless corrective action is initiated in accordance with rules 335-6-15-.24 through 335-6-15-.32~~1~~, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under rule 335-6-15-.20 within 7 days and submit the results to the Department within 10 days, or another reasonable time period specified by the Department, using either the following steps or another procedure approved by the Department:

(a) System test. Owners and operators must conduct tests (according to the requirements for tightness testing in rules 335-6-15-.17(c) and 335-6-15-.18(b) or as appropriate, secondary containment testing described in rule 335-6-15-.12(f)).

1. The test must determine whether:

(i) A leak exists in that portion of the underground storage tank, or the attached underground delivery piping; or

(ii) A breach of either wall of the secondary containment has occurred.

2. If the UST system test confirms a leak into the interstice or a release, owners and operators must immediately temporarily close the UST system in accordance with rule 335-6-15-.33(1)(c), repair the UST system in accordance with rule 335-6-15-.12, or permanently close the UST system in accordance with rules 335-6-15-.34 through 335-6-15-.37. In addition, owners and operators must begin corrective action if the test results for the system (underground storage tank, and/or underground delivery piping) indicate that a release exists.

3. The Department may release an owner or operator from any further investigation requirements if the underground storage tank tests tight after minor repairs to that portion of the underground storage tank that does not routinely contain product.

4. Further investigation is not required if the test results for the system (underground storage tank, and/or underground delivery piping) do not indicate that a release exists and if environmental contamination is not the basis for suspecting a release.

5. Owners and operators must conduct a preliminary investigation as described in subparagraph (b) of this rule if the test results for the system (underground storage tank, and/or underground delivery piping) do not indicate that a release exists but environmental contamination is the basis for suspecting a release.

(b) Preliminary investigation. Owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST system site. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill,



the depth of groundwater, and other factors appropriate for identifying the presence and source of the release. Specific requirements for a preliminary investigation are included in rule 335-6-15-.26.

1. If in the determination of the Department the results of the preliminary investigation indicate that a release has occurred, owners and operators must initiate corrective action in accordance with rules 335-6-15-.24 through 335-6-15-.32~~1~~. The Department may require a secondary investigation to be performed.

2. If in the determination of the Department the results of the preliminary investigation do not indicate that a release has occurred, further investigation is not required.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Vernon H. Crockett](#).

**Statutory Authority:** [Code of Alabama](#) 1975, § 22-36-3.

**History:** April 5, 1989.

**Amended:** October 2, 2003; **Amended:** April 1, 2014; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**335-6-15-.23 Reporting and Cleanup of Spills and Overfills.**

(1) Owners and operators of UST systems must contain and immediately clean up a spill or overfill and report to the Department within 24 hours, or another reasonable time period specified by the Department, and begin corrective action in accordance with rules 335-6-15-.24 through 335-6-15-~~.341~~ in the following cases:

(a) Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons or another reasonable amount specified by the Department, or that causes a sheen on nearby surface water; and

(b) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR 302).

(2) Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than 25 gallons or another reasonable amount specified by the Department, and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, or another reasonable time period established by the Department, owners and operators must immediately notify the Department.

**Author:** Sonja Massey, [Vernon H. Crockett](#).

**Statutory Authority:** [Code of Alabama](#) 1975, § 22-36-3.

**History:** April 5, 1989.

**Amended:** October 2, 2003; **Proposed:** November 18, 2021.

**335-6-15-.24 Initial Release Response.**

(1) Owners and operators of petroleum or hazardous substance UST systems must, in response to a confirmed release from the UST system, comply with the requirements of rules 335-6-15-.24 through 335-6-15-.324 except for UST systems excluded under rule 335-6-15-.03(2) and UST systems subject to corrective action requirements under ~~4~~Division 14 of the ADEM Administrative Code.

(2) Upon confirmation of a release in accordance with rule 335-6-15-.22 or after a release is identified in any other manner, owners and operators must perform the following initial response actions within 24 hours of a release or within another reasonable period of time determined by the Department:

(a) Report the release to the Department (notification by telephone is acceptable);

(b) Take immediate action to prevent any further release of the regulated substance into the environment; and

(c) Identify and mitigate fire, explosion, and vapor hazards.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Vernon H. Crockett](#).

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

**History:** April 5, 1989.

**Amended:** October 2, 2003; **Amended:** April 25, 2008; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**335-6-15-.25 Initial Abatement Measures and Preliminary Investigation.**

(1) Upon confirmation of a release in accordance with rule 335-6-15-.22 or after a release is identified in any other manner, unless directed to do otherwise by the Department, owners and operators must perform the following abatement measures:

(a) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;

(b) Visually inspect any aboveground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and groundwater;

(c) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);

(d) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator must comply with applicable ADEM and local requirements;

(e) Perform a preliminary investigation in accordance with rule 335-6-15-.26;

(f) Investigate to determine the possible presence of free product, and if found, begin free product removal as soon as practicable and in accordance with rule 335-6-15-.27. Where free product is present, investigative and corrective actions must be initiated in accordance with rules 335-6-15-.24 through 335-6-15-.341;

(g) Where dissolved groundwater contamination is determined to occur, for example, the contamination of an on-site well with a regulated substance, investigative and corrective actions must be initiated in accordance with rules 335-6-15-.24 through 335-6-15-.341.

(2) Within 20 days after release confirmation, or within another reasonable period of time determined by the Department, owners and operators must submit a report of initial response to the Department summarizing the initial abatement steps taken under paragraph (1) of this rule, the nature and estimated quantity of the regulated substance lost, information regarding the presence of free or dissolved product, tightness testing results where applicable, or any other resulting information or data.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, Vernon H. Crockett.

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

**History:** April 5, 1989.

**Amended:** October 2, 2003; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

### **335-6-15-.26 Preliminary Investigation Requirements.**

(1) Unless directed to do otherwise by the Department, or under the conditions identified in paragraph (2) of this rule, owners and operators required to perform a preliminary investigation must obtain and provide information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in rule 335-6-15-.25. This information must include, but is not necessarily limited to the following:

(a) Type of current and most likely future land use for the tank property and any likely affected properties, surrounding population, e.g., urban, rural, residential, commercial, agricultural;

(b) Results of a well inventory within 1000 feet of the site which includes the location, and where available, information on the depth and elevation and ownership of each well;

(c) Location of any public water supply wells, springs or reservoirs which are within one mile of the site;

(d) A description of the hydrogeologic environment, including type and nature of geologic materials, location of surface waters, surrounding land and water users, and the location of all underground utilities, water lines, sewers or other conduits;

(e) A determination of the uppermost aquifer and an initial evaluation of the potential for hydraulic interconnection with lower aquifers. This evaluation at this stage may be made based upon the results of site soil sampling and borings and available literature data;

(f) Results of soil sampling collected from the area which is most likely to have been affected by a release of a regulated substance:

1. A sufficient number of soil samples shall be collected to accurately represent the area and depths affected by a release;

2. Soil sampling shall be performed to a depth which adequately represents the zone most likely to have been contaminated by a release; and

3. Soil sampling shall be sufficient to determine if free product is present on the water table.

(g) Where soils are encountered which have a total petroleum hydrocarbon concentration of greater than 100 ppm and such soils extend to within 5 feet of the seasonal high water table, groundwater samples shall be collected and analyzed at a minimum of one up-gradient and three down-gradient locations unless directed to do otherwise by the Department.

(2) Upon approval by the Department, the following procedures may be used in satisfying the requirement for a preliminary investigation or closure assessment when the underground storage tank excavation pit is completely open and available for representative sample collection. If the conditions identified in subparagraph (2)(d)1. and 2. of this rule cannot be met; however, the preliminary investigation requirements of paragraph (1) of this rule must be complied with, unless directed to do otherwise by the Department.

(a) Soil samples shall be collected from the sides and base of the underground storage tank pit. At least one sample shall be collected from each side of the pit and at least one sample from the pit bottom for every underground storage tank that was present in the excavation. Side samples shall be collected from the lowest one-third of the underground storage tank wall. One sample per 10 lineal feet shall be collected from the base of underground piping trenches. Samples from the underground storage tank pit sides, base, and underground piping trenches shall be representative of the area being sampled.

(b) Analyze soil samples for the presence of total petroleum hydrocarbons.

(c) Determine the elevation of the groundwater table. Information on the elevation of the water table may be obtained from a boring located adjacent to the underground storage tank pit or from a nearby location. Water table elevation data may also be obtained when topographical features provide surface indications of the water table, and this data is substantiated by literature values.

(d) If the conditions identified in 1. and 2. in the table below are met, the Department may consider the investigation to be complete and no further action will be required. If the conditions identified in 1. and 2. in the table below cannot be met, the Department may require additional investigative actions or a preliminary investigation, in accordance with paragraph (1) of this rule, to be conducted.

<b>Total Petroleum Hydrocarbon Concentration</b>	<b>Depth to Groundwater</b>
1. 100 ppm or less for each sample	5 feet or more below base of underground storage tank excavation
2. 10 ppm or less for every sample	No restrictions

(3) 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 rules 335-6-15-.17(f)6. through 8., 10. through 14. and 20., and where cross-contamination is of concern, monitoring well construction details must be reviewed in advance by the Department. The Department may require modification of proposed construction details.

(4) All samples shall be analyzed for parameters which are appropriate to the nature of the stored substance and according to the methods specified in rule 335-6-15-.32.

(5) Within 60 days of release confirmation, or notification by the Department that a Preliminary Investigation is required, under the conditions of paragraph (1) of this rule, the owners and operators must submit the information collected in compliance with this rule to the Department in a manner that demonstrates its applicability and technical adequacy, ~~or~~ and in a format and according to a schedule required by the Department. If the procedures under paragraph (2) of this rule apply, the results of the investigation must be submitted within 45 days of release confirmation or notification by the Department that an investigation is required.

(6) Preliminary investigation and closure site assessments must be performed in accordance with accepted geologic practices by a licensed professional geologist or registered professional engineer experienced in hydrogeologic investigations.

(7) Upon review of the results of the Preliminary Investigation, the Department may require a Secondary ~~i~~nvestigation to be completed in accordance with rule 335-6-15-.28.

(8) 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 characterize the area and soil depths most likely to have been contaminated by a release.

(9) Management, treatment and disposal of soils, purge water and free product must comply with applicable local, state and federal requirements.

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

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

**History:** April 5, 1989.

**Amended:** October 2, 2003; **Amended:** August 6, 2007; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.



**335-6-15-.27 Free Product Removal.** At sites where investigations indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the Department while continuing, as necessary, any actions initiated under rules 335-6-15-.24 through 335-6-15-.26 or preparing for actions required under rules 335-6-15-.28 and 335-6-15-.29. In meeting the requirements of this section, owners and operators must:

(a) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, state of Alabama and federal regulations;

(b) Use abatement of free product migration and removal of free product in a reasonable period of time as a minimum objective for the design of the free product removal system;

(c) Handle any flammable products in a safe and competent manner to prevent fires or explosions; and

(d) Unless directed to do otherwise by the Department, prepare and submit to the Department, within 45 days after confirming ~~a release~~the presence of free product, a free product removal report that provides at least the following information:

1. The name of the person(s) responsible for implementing the free product removal measures;

2. The estimated quantity, type, and thickness of free product observed or measured in wells, boreholes, and excavations;

3. The type of free product recovery system used;

4. Whether any discharge ~~will take~~will or has taken place on-site or off-site during the recovery operation and where this discharge will be located;

5. The type of treatment applied to, and the effluent quality expected from, any discharge;

6. The steps that have been or are being taken to obtain necessary permits for any discharge; and

7. The disposition of the recovered free product.

(e) The Department may require additional measures to be taken to achieve free product recovery, if it is determined that the objectives of subparagraphs (a) through (c) of this rule are not being accomplished. A plan for continued free product removal shall be submitted for review and approval by the Department.

(f) Free product removal activities shall continue under this rule unless released from these requirements by the Department or a Corrective Action Plan is approved for authorization under Rule 335-6-15-.29.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Dorothy Malaier](#).

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

**History:** April 5, 1989.

**Amended:** April 1, 2014; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**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., 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) 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.

(8) All investigation derived waste shall be handled as stated in 335-6-15-.26(9).

**Author:** Sonja Massey, Curt Johnson, Lee Davis, [Dorothy Malaier](#).

**Statutory Authority:** [Code of Alabama](#) 1975, § 22-36-3.

**History:** April 5, 1989.

**Amended:** October 2, 2003; **Amended:** August 6, 2007; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**335-6-15-.29 Corrective Action Plan.**

(1) At any point after reviewing the information submitted in compliance with rules 335-6-15-.24 through 335-6-15-.28, the Department may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and groundwater. If a plan is required, owners and operators must submit the plan according to a schedule and format established by the Department. Alternatively, owners and operators may, after fulfilling the requirements of rules 335-6-15-.24 through 335-6-15-.28, choose to submit a corrective action plan for responding to contaminated soil and groundwater. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Department, and must modify their plan as necessary to meet the requirements of the Department for achieving this standard.

(2) The corrective action plan must:

(a) Address the full lateral and vertical extent of soil and groundwater contamination or as otherwise required by the Department;

(b) Address mitigation of soil contamination either through soil removal, or treatment in place, or another method which is determined by the Department to be no less protective of health and the environment, to standards identified in rule 335-6-15-.30;

(c) Provide for removal of free product in an effective and timely manner;

(d) Provide for treatment of dissolved groundwater contamination in an effective and timely manner to standards identified in rule 335-6-15-.30;

(e) Provide a rationale for selection of the proposed corrective actions and design criteria which address such items as equipment selection, flow rates and pumping rates;

(f) Address measures necessary to meet local, state of Alabama or federal requirements for control of surface or air discharges or disposal of soil or free product; and

(g) Include a proposed schedule of implementation and monitoring plan.

(h) Include site specific clean-up goals for soil, groundwater, surface water and vapors as applicable.

(i) Include an estimate of timeframes to meet the appropriate clean-up goals for each affected media.

(3) The Department will approve the corrective action plan only when satisfied that implementation of the plan provides for measures considered

adequate to protect human health, safety, and the environment. In making this determination, the Department should consider the following factors as appropriate:

(a) The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;

(b) The hydrogeologic characteristics of the site and the surrounding area;

(c) The findings of the preliminary and secondary investigations, and groundwater monitoring events;

(d) The proximity, quality, and current and future uses of nearby surface water and groundwater;

(e) The potential effects of residual contamination on nearby surface water and groundwater;

(f) An exposure assessment conducted in accordance with rule 335-6-15-.30; and

(g) Any information assembled in compliance with this subpart.

(4) Upon approval of the corrective action plan or as directed by the Department, owners and operators must implement the plan, including modification to the plan made by or required to be made by the Department. They must monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and in a format established by the Department.

(5) If at any time, the Department determines that the implementation of corrective actions are not achieving adequate protection of human health and the environment, the Department may require additional measures to be taken.

(6) Owners and operators shall continue implementation of the corrective action plan until released in writing from this responsibility by the Department.

(7) Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil and groundwater before the corrective action plan is approved provided that they:

(a) Notify the Department of their intention to begin cleanup;

(b) Comply with any conditions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and

(c) Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Department for approval.

(8) Upon conclusion of investigative monitoring, or corrective actions at a site, the Department may require any or all monitoring wells to be properly closed using procedures acceptable to the Department. A monitoring well abandonment plan and report will be required to be submitted in a format acceptable to the Department.

~~(9) Corrective Action Plans and Reports documenting the implementation of the Corrective Action Plan must comply with ADEM Admin. Code r. 335-6-15-.08(2).must be signed by an Alabama Licensed Professional Geologist and/or an Alabama Registered Professional Engineer in accordance with applicable state laws regarding the applicable licensing acts. Plans including engineering design must be signed by an Alabama Registered Professional Engineer.~~

~~(10) Reports documenting the implementation of the Corrective Action Plan must be signed by an Alabama Licensed Professional Geologist and/or an Alabama Registered Engineer in accordance with applicable state laws regarding the applicable licensing acts. Reports documenting the installation of an engineering remediation system must be signed by an Alabama Registered Professional Engineer.~~

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

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

**History:** April 5, 1989.

**Amended:** October 2, 2003; **Amended:** April 25, 2008; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**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 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-incremental 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 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 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; [Vernon H. Crockett](#).

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

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

**Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**335-6-15-.32 Analytical Requirements.** Soil and groundwater samples collected under the requirements of this chapter shall be analyzed for the constituents according to the methods presented in this rule, as directed by the Department.

(a) Analysis of soils. Analysis of soils for petroleum contaminants shall be performed for the following parameters according to the type of petroleum product causing the contamination:

1. Total petroleum hydrocarbons.
2. Benzene, ethyl benzene, toluene, total xylenes, naphthalene, methyl tert-butyl ether.
3. Polynuclear aromatic hydrocarbons (PAHs) as directed by the Department.
4. Lead.

<u>1. Total petroleum hydrocarbons</u>	<u>Standard Method 503 EPA Method 9071</u>
<u>2. Benzene, ethyl benzene, toluene and total xylenes</u>	<u>EPA Method 5030 or 3810, followed by EPA Method 8020 or 8240</u>
<u>3. Lead</u>	<u>EPA Method 239.2</u>

(b) Gasoline analytical group. Analysis of groundwater or surface waters required by this chapter for petroleum contaminants of this group shall be performed for the following parameters according to the type of petroleum product causing the contamination:

1. Benzene, ethyl benzene, toluene, total xylenes, naphthalene, methyl tert-butyl ether
2. 1, 2-Dibromoethane and 1,2 - Dichloroethane
3. Lead.
4. Volatile organic compounds, as directed by the Department.

1. <del>Volatile organic halocarbons (including priority pollutant compounds)</del>	<del>EPA Method 601</del>
2. <del>Benzene, ethyl benzene, toluene and total xylenes</del>	<del>EPA Method 602 or 624</del>
3. <del>1, 2-Dibromoethane</del>	<del>EPA Method 504.1</del>
4. <del>Lead</del>	<del>EPA Method 239.2</del>

(c) Kerosene Analytical Group. Analysis of groundwater or surface waters required by this chapter for petroleum contaminants of this group shall be performed for the following parameters according to the type of petroleum product causing the contamination:

1. Polynuclear aromatic hydrocarbons (PAHs) as directed by the Department.
2. Benzene, ethyl benzene, toluene and total xylenes.
3. Volatile organic compounds as directed by the Department.
4. 1, 2-Dibromoethane. And 1,2-Dichloroethane
5. Lead.

Note: Kerosene, diesel and jet fuels are included in this group.

1. <del>Polynuclear aromatic hydrocarbons (PAH) (including 15 priority pollutant PAH's plus 2 Methylnaphthalene and 1 Methylnaphthalene)</del>	<del>EPA Method 601 <del>610</del> or 625</del>
2. <del>Benzene, ethyl benzene, toluene and total xylenes</del>	<del>EPA Method 602 or 624</del>
3. <del>Volatile organic halocarbons (including priority pollutant compounds)</del>	<del>EPA Method 601</del>
4. <del>1, 2-Dibromoethane</del>	<del>EPA Method 504.1</del>
5. <del>Lead</del>	<del>EPA Method 239.2</del>

(d) For tanks containing materials other than those list in (a), (b), or (c) above, analytical parameters will be as directed by the Department.

(e) Monitoring of soil or groundwater for ~~all other than petroleum related~~ regulated substances shall be according to established EPA analytical methods, where applicable.

(fe) Where the results of initial analyses of soil or groundwater do not indicate the presence of a contaminant listed in subparagraphs (a) through (c) of this rule, or indicate that the presence of the contaminant is due to an ambient

concentration, the Department may waive requirements for further testing for that contaminant.

(g~~f~~) The Department may approve ~~alternate~~additional methods for the monitoring or investigation of regulated substances which have been released to soils, groundwaters or surface waters of the state of Alabama.

(h) Soil vapor monitoring will be as directed by the Department and shall be according to established EPA analytical methods, where applicable.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, Dorothy Malaier, Vernon H. Crockett.

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

**History:** April 5, 1989.

**Amended:** October 2, 2003; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**335-6-15-.35 Site Closure or Change-In-Service Assessment.**

(1) Before permanent closure or change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site according to procedures which are acceptable to the Department. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. A report of the assessment findings shall be submitted to the Department within 45 days of initiating the closure or the change-in-service. The assessment requirements of this paragraph are satisfied if the requirements of rule 335-6-15-.26(1)(f) and (g) or (2) are satisfied or one of the external release detection methods allowed in rules 335-6-15-.17(e) and (f) and 335-6-15-.18 have been routinely used and operated in accordance with the requirements in rules 335-6-15-.17 and 335-6-15-.18 at the time of closure, and indicates no release has occurred.

(2) If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered under paragraph (1) of this rule, or by any other manner, owners and operators must begin corrective action in accordance with rules 335-6-15-.24 through 335-6-15-.~~34~~1.

**Author:** Sonja Massey, Curt Johnson, Lee Davis, Vernon H. Crockett.

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

**History:** April 5, 1989.

**Amended:** October 2, 2003; **Amended:** December 8, 2017; **Proposed:** November 18, 2021.

**Attachment 4**

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-7 of the Department's Water Division – Water Supply Program Rules in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed the oral and written submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all oral and written submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.

NOW THEREFORE, pursuant to Ala. Code. §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-7 [rules 335-7-4-.04/ Requirements for New Water Systems (Amend); 335-7-4-.07/Facility Permit Renewal (Amend); 335-7-7-.04/Water Storage Tank Maintenance (Amend)] of the Department's Water Division – Water Supply Program rules, administrative code attached

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

hereto, to become effective forty-five days, unless otherwise indicated, after filing with the Alabama Legislative Services Agency.

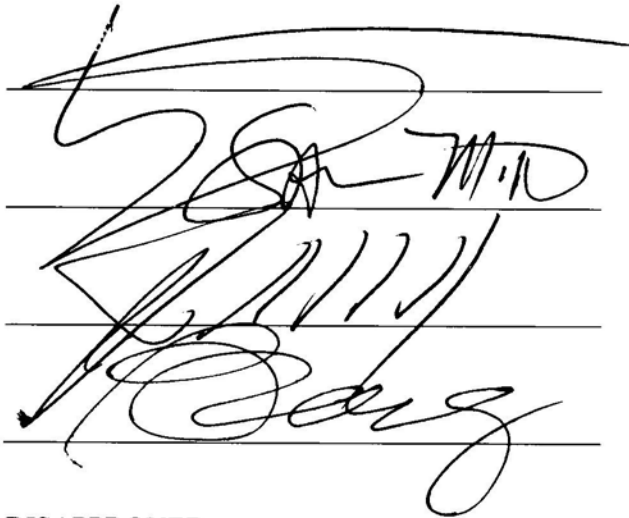


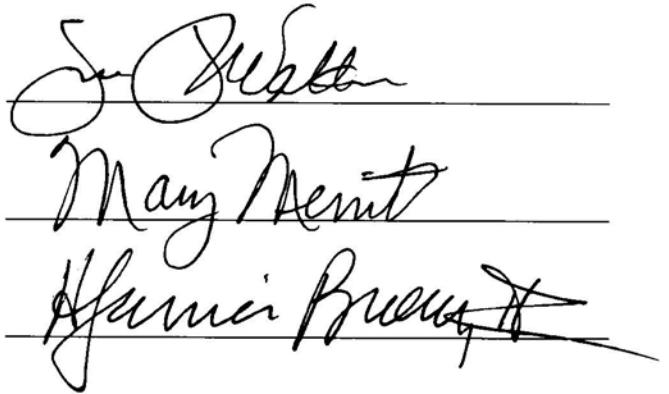
**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

ADEM Admin. Code division 335-7 – Water Supply Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 11<sup>th</sup> day of February 2022.

APPROVED:






DISAPPROVED:

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**This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 11th day of February 2022.**

  
\_\_\_\_\_  
**Chair**  
**Environmental Management Commission**  
**Certified this 11th day of February 2022**

ABSTAINED:

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**335-7-4.04 Requirements for New Water Systems and Purchase Systems Installing or Acquiring Surface or Ground Sources.**

(1) Prior to submitting a permit application package for the construction of a new community or NTNC water system, an engineering report must be submitted to the Department. All documents associated with the application package should be in electronic format unless paper format is approved by the Department in advance. The Department may require paper format. The engineering report is to provide the following:

(a) A description of the proposed service area;

(b) If the source of water is to be an existing permitted system, a copy of the executed purchase agreement;

(c) If the source of water is to be a new or newly acquired surface or ground source, a description of the source and treatment processes to be employed;

~~(b) A copy of a purchase agreement with a permitted public water system or the proposed sources of water supply and a description of treatment processes to be employed;~~

~~(e)(d)~~ An estimation of maximum and future water demands by the system;

~~(d)(c)~~ A ~~10-year financial narrative~~ plan that details how the water system will meet the financial, technical and managerial requirements of ADEM Regulations;

(f) An asset management plan that includes the following elements:

1. Asset inventory;

2. The required sustainable level-of-service;

3. Determination of critical assets;

4. Determination of the lowest life-cycle cost options for providing the highest level-of-service over time; and

5. Long-term financing strategy.

(2) Community and NTNC systems shall submit a completed application package when requesting a permit for the construction of a new public water system.

(3) Proposed transient non-community water systems must provide the following:

(a) A completed Department permit application form, paper format is acceptable,

(b) Permit fee as established by the Department.

(c) A summary report describing the functions of the facility, number of anticipated people it will serve, bacteriological and nitrate analyses of the proposed source of supply, well construction data should the proposed source be a well and any sources of contamination which might impact the water quality, and

(d) Information which demonstrates the applicant water system has technical, managerial and financial capacity.

**Author:** Joe Alan Power, Edgar K. Hughes, Ross Caton.

**Statutory Authority:** Code of Alabama 1975, §§ 22-23-33, 22-23-49, 22-22A-5, 22-22A-6.

**History:** May 23, 1977; Repealed and readopted: January 4, 1989; October 31, 1990; effective: December 5, 1990.

**Amended:** June 7, 2000; **Amended:** December 12, 2005; **Amended:** September 25, 2012; **Proposed:** November 18, 2021.

**335-7-4-.07 Facility Permit Renewal.**

(1) Public water systems are eligible for permit renewal by submitting a completed application, necessary fees, and any documentation necessary to show the system has technical, managerial and financial capacity and is in complete compliance with the existing permit conditions and regulations of this Department.

(2) Water systems must submit a satisfactorily completed permit application with the appropriate permit fee to the Department requesting permit renewal no less than 180 days prior to permit expiration. Such an application will be accepted by the Department for processing up to 12 months prior to the expiration of the facility permit.

(3) The Department may, based on compliance history or deficiencies noted during inspections, require an existing public water system to submit an asset management plan as detailed at 335-7-4-.04(1)(f) as a condition of permit renewal.

**Author:** Joe Alan Power, Edgar K. Hughes, Ross Caton.

**Statutory Authority:** Code of Alabama 1975, §§ 22-23-33, 22-23-49, 22-22A-5, 22-22A-6.

**History:** Repealed and readopted: January 4, 1989; October 31, 1990; effective December 5, 1990.

**Amended:** June 7, 2000; **Amended:** March 12, 2002; **Amended:** December 12, 2005; **Proposed Rules:** November 18, 2021.

### **335-7-7-.01 Water Storage Tank Maintenance.**

(1) For the purposes of this rule, “water storage tank” or “storage tank” shall mean any vessel designed to store finished drinking water that is owned or operated by the public water system. This includes clearwells, hydropneumatic tanks with hatches or manholes for access to its interior, and storage tanks that are out of service but still connected to the distribution system.

(2) Public water systems shall develop and implement a written maintenance plan for all water storage tanks. The plan at a minimum shall include the following:

(a) Schedule for the inspection/cleaning of each water storage tank, not to exceed 5 year intervals.

(b) The current coating type for each water storage tank, with particular emphasis placed on coatings which contain lead, coal tar, other coatings no longer NSF approved for use in a water storage tank.

(c) Separate specifications for the inside and outside coatings describing when the coating has failed and must be repaired.

(d) The method that will be used to disinfect the water storage tank after each inspection/cleaning. The disinfection method selected shall comply with AWWA ~~C692~~-C652 (latest edition) for Disinfection of Water-Storage Facilities. After the storage tank has been properly disinfected and refilled to an acceptable disinfectant residual in accordance with ADEM Admin. Code r. 335-7-10-.04, two consecutive bacteriological samples shall be collected not less than 30 minutes apart and analyzed to be absent of total coliform before the storage tank may be returned to service. ~~Two bacteriological samples taken 24 hours apart which are total coliform negative is required before returning a water storage tank to service.~~

(e) Schematics (as-built drawing if available) depicting the water storage tank’s dimensions and configuration for all major components. If a mixer is present, the plan shall include the operational parameters for the mixing system if applicable.

#### **(3) Inspection/Cleaning Requirements.**

(a) All storage tanks constructed prior to January 1, 2022, shall have an initial inspection/cleaning under this regulation completed by December 31, 2027.

(b) All storage tanks constructed on or after January 1, 2022, shall have an initial inspection/cleaning under this regulation completed no later than five years from the date of construction.

(c) All storage tanks shall be inspected/cleaned at least once every five years following the date of the initial inspection/cleaning under this regulation.

(4) No storage facility may be returned to service until all significant deficiencies have been repaired. A significant deficiency is any deficiency where there

is a potential for the water to become contaminated. This includes, but is not limited to, the following:

- (a) Missing roof hatches;
- (b) Missing or incorrectly sized screens on vent pipes. The proper size screen is #20 mesh or smaller made from a non-corroding material;
- (c) Holes in the roof or walls;
- (d) Roof joints that are no longer properly sealed;
- (e) Overflow lines without proper protection which includes a screen and flap valve or another acceptable configuration (e.g., duckbill valve);
- (f) Improper air gap for an overflow line;
- (g) Connection to a sanitary sewer system; or
- (h) Missing or cracked rubber gaskets (if required) around hatches.

(5) If any tank has a significant deficiency identified, a summary report shall be written and submitted to the Department within 14 days of the inspection. This report should also include the corrective action and the timeframe for repair.

(6) A final inspection report shall be written separate from a summary report and shall be maintained on file at the water system for public review and review during inspections. The report shall be maintained for a minimum of 10 years.

(7) The final report shall include a description of any objects or contaminants found in the water storage tank and the most likely entry point.

(8) The final report shall be detailed, including pictures and/or videos, describing all conditions discovered during the inspection, not just a list of deficiencies.

(9) All inspection and summary reports shall be signed by a qualified tank inspection professional. This individual shall possess experience inspecting storage tanks of similar design and size, according to generally recognized standards of the water utility industry.

**Author:** Edgar Hughes, Dennis D. Harrison, Ross Caton.

**Statutory Authority:** Code of Alabama 1975, §§ 22-23-33, 22-23-49, 22-22A-5, 22-22A-6.

**History:** December 12, 2005; **Amended:** January 22, 2008;

**Proposed:** February 11, 2022

**Attachment 5**

**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-16 of the Department's Land Division – DryCleaning Trust Fund Program Rules in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed the oral and written submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all oral and written submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.

NOW THEREFORE, pursuant to Ala. Code. §§ 22-27-2, 22-27-7, 22-27-9, 22-27-12 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-16 [rules 335-16-1-.02/ Definitions (Amend); 335-16-2-.01/ Criteria For Coverage By The Act (Amend); 335-16-3-.01/ General (Amend); 335-16-4-.01/ Purpose (Amend); 335-16-4-.02/ Initial Investigation (Amend); 335-16-5-.01/ General Provisions (Amend); 335-16-5-.02/ Performance Standards (Amend); 335-16-6-.02/ Property Remediation (Amend)] of the



**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

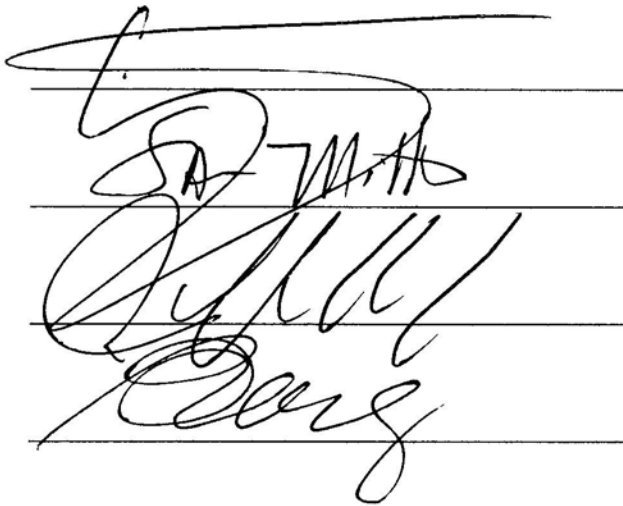
Department's Land Division – DryCleaning Trust Fund Program rules, administrative code attached hereto, to become effective forty-five days, unless otherwise indicated, after filing with the Alabama Legislative Services Agency.

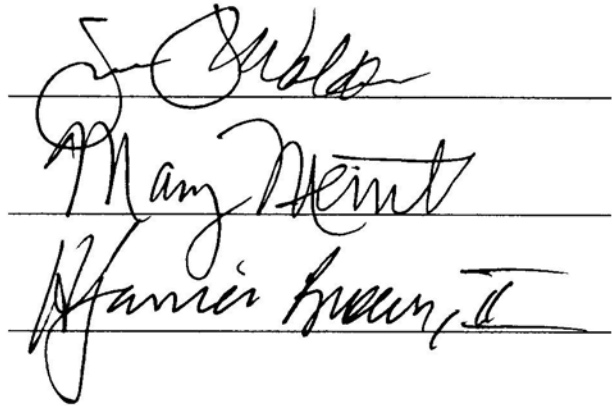
**ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION**

ADEM Admin. Code division 335-16 – DryCleaning Trust Fund Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 11<sup>th</sup> day of February 2022.

APPROVED:






DISAPPROVED:

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This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 11th day of February 2022.

  
Chair  
Environmental Management Commission  
Certified this 11th day of February 2022

ABSTAINED:

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**335-16-1-.02 Definitions.** Unless otherwise defined in ADEM Admin. Code ~~r. R.~~ 335-16-1 through 335-16-6, the following words and terms shall have the meanings given below:

(a) "Abandoned drycleaning facility" is any real property premises or individual leasehold space owned by an eligible entity in which a drycleaning facility or wholesale distribution facility formerly operated.

(b) "ADEM" means the Alabama Department of Environmental Management as established by Code of Alabama 1975, § 22-22A-4.

(c) "ADERTFA" or "the Act" means the Alabama Drycleaning Environmental Response Trust Fund Act, Code of Alabama 1975, § 22-30D-1 et seq.

(d) "Adjacent land owner" is any owner, lessor, or mortgagee of any real property onto which contamination from an eligible site has migrated or is threatening to migrate; or any of the successors or assigns, predecessors-in-title, and successors-in-title of the foregoing.

(e) "AHWMMA" means the Alabama Hazardous Waste Management and Minimization Act of 1978, as amended, Code of Alabama 1975, §§ 22-30-1 et seq.

(f) "Aquifer" means a geologic formation, group of formations or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(g) "Board" means the Alabama Drycleaning Environmental Response Trust Advisory Board created by Code of Alabama 1975, § 22-30D-8.

(h) "Certification" means a statement of professional opinion based upon knowledge and belief.

(i) "Cleanup Properties Inventory" means the list compiled and updated as necessary by the Department pursuant to 335-16-7-.02 for all qualifying properties for which contamination has been discovered.

(j) "Commercial hazardous waste disposal facility" is one receiving hazardous waste not generated on-site for disposal and to which a fee is paid or other compensation is given for disposal.

(k) "Contamination" means the presence of drycleaning agent in soil, groundwater, surface water, or any other medium at or on a drycleaning facility, abandoned drycleaning facility, wholesale distribution facility, or any real property of any impacted third party.

(l) "Contractor" means a person or business that contracts to perform work.

(m) "Department" means the Alabama Department of Environmental Management or its successor department or agency of the state.

(n) "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

(o) "Director" means the Director of the Alabama Department of Environmental Management or his designee.

(p) "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, or dumping of hazardous waste into or on any land or water.

(q) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste or any hazardous constituent thereof which may enter the environment or be emitted into the air or discharged into any waters including groundwater.

(r) "Drycleaning agent" means any non-hydrocarbon chlorine or hydrocarbon-based formulations or products used or to be used as a primary cleaning agent in the cleaning of garments, apparel, or household fabrics at a drycleaning facility and includes, but is not limited to, perchloroethylene, also known as tetrachloroethylene, other chemicals using CAS No. 127-18-4, solvent-charged detergent, spotting agents, glutone and any other chlorine or petroleum-based formulations or products and the substances into which any such formulations or products degrade.

(s) "Drycleaning facility" means a place of business, located at or on any real property premises or individual leasehold space located in this state which operates, or has operated in the past, in whole or in part, a commercial facility for the purpose of laundering or cleaning garments, apparel, or household fabrics for the general public using any process that involves the use of drycleaning agents. The term "drycleaning facility" specifically includes: All contiguous land, structures, and other appurtenances and improvements on the land used in connection with a drycleaning facility; tuxedo rental facilities renting to the public which conduct drycleaning operations on the premises; and "route sales," "dry store," or "pick-up store". The following facilities are excepted from the definition of "drycleaning facility":

1. A "stand-alone" coin operated laundry or a coin operated drycleaning facility;

2. A facility located on a United States military base or owned by the United States, or any department or agency thereof;

3. A facility owned or leased by the state, any county, town, or public or quasi-public organization of the state, any public subdivision thereof, or any agency or department thereof, or any body corporate or system of the state under the management or administration of a board of control or governing board established by the state;

4. A facility primarily engaged in uniform service or linen supply;

5. Prison, hotel, motel, or industrial drycleaners not providing services to the general public, hospitals, or nursing homes; or

6. Any facility owned or leased by any owner or operator who shall elect not to be covered by the Act.

(t) "Engineer" means a person registered as a professional engineer with the State of Alabama Board of Registration for Professional Engineers and Land Surveyors.

(u) "Eligible entity" means any person owning a drycleaning facility, abandoned drycleaning facility, or a wholesale distribution facility, or an impacted third party, or adjacent landowner(s) who elected to be covered by the Act.

(v) "Eligible site" means any drycleaning facility, abandoned drycleaning facility, wholesale distribution facility, or adjacent land that is covered by the Act as a result of election for coverage by the owner, operator or impacted third party.

(w) "EPA" means the United States Environmental Protection Agency.

(x) "Existing drycleaning facility" means any drycleaning facility which is currently in operation and that was in operation prior to May 24, 2000 and has elected to be covered under the Act.

(y) "Facility" is a term synonymous with "site".

(z) "Fund" means the Alabama Drycleaning Environmental Response Trust Fund created by Code of Alabama 1975 § 22-30D-5.

(aa) "Generator" means any person, by individual generation site, whose act or process produces hazardous waste identified or listed in Chapter 335-14-2 or whose act first causes a hazardous waste to become subject to regulation.

(bb) "Geologist" means a person registered as a professional geologist with the State of Alabama under the Alabama Professional Geologist Licensing Act.

(cc) "Groundwater" means water below the land surface in a zone of saturation.

(dd) "Hazardous substance" means any substance included on the List of Hazardous Substances and Reportable Quantities, codified as 40 CFR Part 302, Table 302.4, in force and effect on the effective date of 335-16 and subsequent revisions thereof, or any substance listed on the List of Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as 40 CFR Part 355, Appendix A, in force and effect on the effective date of 335-16 and subsequent revisions thereof.

(ee) "Hazardous waste" means a hazardous waste as defined in 335-14-2-.01(3).

(ff) "Hazardous Waste Treatment, Storage, or Disposal Facility" means any property or facility which is intended or used for the treatment, storage, or disposal of hazardous waste subject to the permit requirements of ADEM Admin. Code 335-14-8.

(gg) "Impacted third party" is any person who is or has been an owner, lessor, or mortgagee of real property on which an eligible site is or has been located.

(hh) "Land Use Controls" means any restriction or control, which serves to protect human health and/or the environment, that limits use of and/or exposure to, any portion of a property, including water resources. These controls may include:

1. Engineering controls which are remedial actions directed toward containing or controlling the migration of contaminants through the environment. These include, but are not limited to, stormwater conveyance systems, slurry walls, liner systems, caps, leachate collection systems, pump and treat systems, and groundwater recovery systems.

2. Institutional controls which are legal or contractual restrictions on property use that remain effective after remediation is completed and are used to meet remediation levels. The term may include, but is not limited to, deed notations, deed restrictions and/or, water use restrictions, restrictive covenants, conservation easements, and limited development rights.

3. Water use restrictions which can be placed on the use of a particular water supply source that has been identified as being contaminated with hazardous substances or other contaminants in order to protect human health and the environment.

(ii) "Manifest" means the form adopted by the Department used for identifying the quantity, composition, origin, routing and destination of

hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

(jj) "New Drycleaning Facility" means any drycleaning facility that began operation after May 23, 2003.

(kk) "Other waste" is wastes as defined in ADEM Admin. Code ~~r. R.~~ 335-14-1-.02.

(ll) "Owner or Operator" means any person who owns or leases an active or abandoned drycleaning facility or distribution facility, who is or has been responsible for operations at such facility and who elected to be covered by the Act.

(mm) "Person" means an individual, trust, firm, joint venture, consortium, joint-stock company, corporation, partnership, or limited liability company. Person does not include any governmental organization.

(nn) "Preexisting release" means a release which occurred prior to election for coverage under Alabama Drycleaning Environmental Response Trust Fund Act by an eligible entity.

(oo) "Property" is synonymous with "facility" and includes any or all of the following:

1. Any land, building, structure, installation, equipment, pipe or pipeline, sewer or publicly owned treatment works, pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, or storage container.

2. Any site or area where a hazardous waste, hazardous constituent, hazardous substance or petroleum product has been deposited, discharged, stored, disposed of, placed, or has otherwise come to be located.

3. A parcel of land defined by the boundaries in the deed.

(pp) "Registration fee" means the fees required to be paid pursuant to Section 6 of the Act by each owner or operator of any drycleaning facility operating in this state who shall elect to be covered by the Act and by each wholesale distributor selling to drycleaning facilities in this state who shall elect to be covered by the Act.

(qq) "Release" means any actual spilling, pouring, overfilling, leaking, leaching, emitting, discharging, or escaping of drycleaning agents at or from a drycleaning facility or wholesale distribution facility into the soils or waters of the state.

(rr) "Remediation level" means the concentration of a contaminant, and applicable control, that is protective of human health and the environment.

(ss) "Reportable quantity" is a known release of a drycleaning agent in excess of the federal reporting standards.

(tt) "Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that contain listed hazardous wastes or that themselves exhibit a hazardous characteristic and are managed for cleanup.

(uu) "Responsible person" means any person who has contributed or is contributing to a release of any hazardous waste, hazardous constituent, or hazardous substance at a property.

(vv) "Risk assessment" means the process used to determine the risk posed by contaminants that have been released into the environment at the site. The process includes a written site specific evaluation which includes elements that encompass, but are not limited to, the identification of the contaminants present in the environmental media, the assessment of exposure and exposure pathways, the assessment of the toxicity of the contaminants present at the site, the characterization of risks to humans, and the characterization of the impacts or risks to the environment.

(ww) "Site" means any land on which a drycleaning facility, abandoned drycleaning facility, or wholesale distribution facility is or has been physically located.

(xx) "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water treatment plant, or air pollution control device, exclusive of the treated effluent from a wastewater treatment plant.

(yy) "State" means the State of Alabama.

(zz) "Storage" means the actual or intended containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.

(aaa) "Subsidiary" ~~has the same meaning as in the 17 CFR 240.12b-2 (1 April 1996 Edition).~~ is a corporation or company in which another corporation owns or controls all or at least a majority of the shares.

(bbb) "Wholesale distribution facility" means a place of business or any real property premises or individual leasehold space, occupied by a wholesale distributor.



(ccc) “Wholesale distributor” is any person whose primary business is selling drycleaning agents and supplies to drycleaning facilities and elects to be covered by the Act.

**Authors:** Lawrence A. Norris; Pamela R. Wilson-; Clethes Stallworth

**Statutory Authority:** Code of Alabama 1975, §§ 22-30D-3 and 22-30D-4.

**History:** July 25, 2003; **Proposed:** November 18, 2021.

**335-16-2-.01 Criteria for coverage by the Act.**

(1) Existing drycleaning facilities, abandoned drycleaning facilities and wholesale distributing facilities, are covered by the Fund under this program provided the following criteria are met:

(a) Pursuant to Code of Alabama 1975, §22-30D-4, the owner(s) or operator(s) have elected to participate in the program and have so notified the Department.

(b) The appropriate registration fees are paid to the Alabama Department of Revenue.

(2) New owners or operators of existing facilities who elect to be covered under the fund shall:

(a) Notify and register with the Department, using ADEM Form 425;

(b) Submit to the Alabama Department of Revenue those fees described in Code of Alabama 1976, § 22-30D-6.

(3) Owners, operators establishing new drycleaning and or wholesale distribution facilities who elect to be covered by the Fund shall:

(a) Register each new facility with the Department, using ADEM Form 425, -within thirty (30) days of the commencement of operation;

(b) Submit registration form(s) to the Alabama Department of Revenue within thirty (30) days of the initiation of business; and

(c) Submit to the Alabama Department of Revenue those fees described in Code of Alabama 1976, § 22-30D-6.

(4) Wholesale distributors who elect to be covered under the fund shall:

(a) Notify and register with the Department, using ADEM Form 425;

(b) Submit registration form(s) to the Alabama Department of Revenue within thirty (30) days of the opening; and

~~(b)(c)~~ Submit registration form(s) to the Alabama Department of Revenue within thirty (30) days of the initiation of business; and

~~(c)(d)~~ Submit to the Alabama Department of Revenue those fees described in Code of Alabama 1976, § 22-30D-6.

(5) Owners, operators and wholesale distributors of existing facilities who did not elect to participate in the Fund are:

(a) Relieved of any obligations, including those to register or pay registration fees, imposed on owners, owners and wholesale distributors who elected to be covered under the terms of the Act

(b) Prohibited from receiving Fund money for any costs incurred at the site or at any real property of any impacted party or adjacent landowner.

(6) Pursuant to Code of Alabama 1976, § 22-30D-7, the following sites are excluded from coverage:

(a) Sites that are contaminated by drycleaning agents where the contamination at such sites did not result from the operation of a drycleaning, abandoned drycleaning, or wholesale distribution facility;

(b) Sites that are not drycleaning, abandoned drycleaning, or wholesale distribution facilities, or the real property of impacted third parties or adjacent landowners, but are contaminated by a release from drycleaning agents being transported to or from drycleaning, abandoned drycleaning, or wholesale distribution facilities;

(c) Any drycleaning, abandoned drycleaning, or wholesale distribution facility, or any property of any impacted third party or adjacent landowner that has been, or is in the future, identified by USEPA as a federal superfund site pursuant to 40 CFR 300 et seq.;

(d) Any drycleaning, abandoned drycleaning, or wholesale distribution facility, or any property of any impacted third party or adjacent landowner which has a treatment, storage, or disposal permit pursuant to the federal Resource Conservation and Recovery Act (RCRA) or AHWMA regulations;

(e) Any drycleaning, abandoned drycleaning, or wholesale distribution facility, or any real property owned or leased by any entity who did not elect to be covered by the Act or any impacted third party or adjacent landowner impacted by or adjacent to any such a site; and/or

(f) Any owner, operator, impacted third party, or adjacent landowner who fails to pay, or is delinquent in payment of fees required by the Act.

(7) Coverage by the Fund shall be effective on the date that a written notice of election is received by the Department.

**Authors:** Lawrence A. Norris; Pamela R. Wilson; Clethes Stallworth.

**Statutory Authority:** Code of Alabama 1975, §§ 22-30D-4, 22-30D-6 and 22-30D-7.

**History:** July 25, 2003; **Proposed:** November 18, 2021.

**335-16-3-.01 General.**

(1) Purpose, scope, and applicability.

(a) ADEM Admin. Code ~~r. R.~~ 335-16-3 establishes standards for new and existing drycleaning facilities, abandoned drycleaning facilities and new and existing wholesale distributing facilities that are:

1. Generators of hazardous waste, and
2. Generators of other waste destined for disposal at commercial hazardous waste disposal facilities located in the State of Alabama.

(b) ADEM Admin. Code ~~rs. R.~~ 335-14-3-.01(2)2-.01(5)(e) and (3d) must be used to determine the applicability of the provisions of 335-16-3 that are dependent on calculations of the quantity of hazardous waste generated per month.

(c) In addition to the requirements of ADEM Admin. Code Chapters 335-14-5 through 335-14-9, a drycleaning facility, abandoned drycleaning facility, or wholesale distribution facility which treats, stores, or disposes of hazardous waste on-site must comply with the following with respect to that waste:

1. ADEM Admin. Code ~~r. R.~~ 335-14-3-.01(2) for determining whether or not the facility produces a hazardous waste;

2. ADEM Admin. Code ~~r. R.~~ 335-14-3-.01(8)(3) for obtaining an EPA identification number;

3. If applicable, ADEM Admin. Code ~~r. R.~~ 335-14-3-.01(8)(d)(4) for submittal of Annual Submission of ADEM Form 8700-12, Notification of Regulated Waste Activity and Certifications of Waste Management;

4. ADEM Admin. Code ~~r. R.~~ 335-14-3-.013(5) for accumulation of hazardous waste;

5. ADEM Admin. Code ~~r. R.~~ 335-14-3-.04(1)(c) and (d) for recordkeeping requirements;

6. ADEM Admin. Code ~~r. R.~~ 335-14-3-.04(4) for additional reporting requirements;

7. ADEM Admin. Code ~~r. R.~~ 335-14-3-.02 for hazardous waste manifest procedures;

8. ADEM Admin. Code ~~r. R.~~ 335-14-3-.03 for pre-transport requirements; and

9. ADEM Admin. Code ~~R.r.~~ 335-14-3-.08 for special requirements for ~~g~~Generators of waste destined for disposal at ~~c~~Commercial ~~h~~Hazardous ~~w~~Waste ~~d~~Disposal ~~f~~Facilities ~~l~~Located in the State of Alabama.

(d) The drycleaning, abandoned drycleaning, or wholesale distribution facility responsible for the generation of other waste destined for disposal at commercial hazardous waste disposal facilities located in the State of Alabama must comply with ADEM Admin Code ~~R.r.~~-335-14-3-.08, ~~Appendix I, and Appendix II.~~

(2) Reserved.

**Author:** Lawrence A. Norris; ~~Clethes Stallworth; Ashley S. Powell~~

**Statutory Authority:** Code of Alabama 1975, §§ 22-30-11, 22-30-13, 22-30-14 and 22-30D-4.

**History:** July 25, 2003; **Proposed:** November 18, 2021.

**335-16-4.01 Purpose.** To provide a mechanism that allows for the initial investigation of existing drycleaning facilities, abandoned drycleaning facilities and wholesale distribution facilities that may be contaminated with drycleaning agents.

**Authors:** Lawrence A. Norris.

**Statutory Authority:** Code of Alabama 1975, §§ 22-30D-4 and 22-30D-5.

**History:** July 25, 2003; **Proposed:** November 18, 2021.

**335-16-4-.02 Initial Investigation.**

(1) For sites at which a release or releases have been confirmed, or sites where contamination is suspected to exist, the owner or operator shall submit a report to the Department describing the release(s) with information that shall include:

(a) The actual or estimated timeframe(s) that the release(s) may have occurred;

(b) The type(s) of hazardous constituents released; and

(c) The approximate or actual amount of hazardous constituents released.

(2) The purpose of the Initial Investigation is to gather sufficient information about the site to allow the Department to prioritize the site.

(3) The Initial Investigation shall be performed according to the criteria established below, unless a Work Plan describing an alternate scope is approved by the Department.

(a) Owners or operators performing an Initial Investigation must obtain and provide information about the site and the nature of the release. At a minimum, an Initial Investigation shall include the following:

1. Characterization of surrounding population, e.g., urban, rural residential;

2. Results of a complete well inventory within a 1500 feet radius of the site and also the location of all other public water supply wells within a 1 mile radius. The inventory shall include the location, and where available, information on the depth, elevation, aquifer, screened zones, and ownership of each well;

3. Results of a receptor survey to include a description of any potential or real receptors of drycleaning-agent contamination. This description should include the hydro-geologic environment, the type and nature of geologic materials, location of surface waters, surrounding land and water users, and the location of all underground utilities, water lines, sewers or other conduits near the Site or within the suspected area of impact that could impact the migration of contaminants;

4. Groundwater samples collected from the first significant water-bearing zone likely to exhibit contamination should be analyzed to assess the groundwater impact at a minimum of one up-gradient and three down-gradient locations. In the event of the discovery of free-phase drycleaning agent, the Department shall be notified immediately. The product should be described to provide information regarding its likely fate-and-transport characteristics, and

all proposed Initial Investigation sampling within or through this area postponed until:

(i) The site-specific hydrogeology is adequately characterized including the potential for hydraulic interconnection with lower aquifers;

(ii) The properties of the product are adequately characterized to allow for the area to be investigated using techniques that will not exacerbate the extent of contamination; and/or

(iii) The feasibility of interim free-phase recovery or remediation activities can be evaluated; and

5. Soil and vapor samples should be collected, as appropriate, in areas most likely to have been impacted by a drycleaning agent release.

(ba) All monitoring wells must be constructed in a manner acceptable to the Department. Closure of wells shall be in accordance with acceptable well abandonment procedures.

(eb) All temporary monitoring wells, soil borings, or direct-push technology borings used to collect grab groundwater samples must be properly closed using acceptable abandonment procedures.

(dc) All selected media samples shall be analyzed for parameters which are appropriate to the nature of the drycleaning agents and their degradation products.

(ed) Initial Investigations shall be performed and certified by a Board approved geologist or engineer.

(4) Following the Initial Investigation, the eligible entity shall submit the results, including the results of any other investigation(s), to the Department.

**Author:** Lawrence A. Norris.

**Statutory Authority:** Code of Alabama 1975, § 22-30D-4.

**History:** July 25, 2003; **Proposed:** November 18, 2021.



**335-16-5-.01 General Provisions**

(1) Any eligible entity shall not be required to:

(a) Obtain any State permit or engage in closure, post closure, or corrective action pursuant to the AHWMMMA;

(b) Establish or maintain any financial assurance;

(c) Become obligated to pay for any costs, except for the deductible set forth in Code of Alabama, 1975, §22-30D-9, in connection with contamination occurring at any drycleaning facility, abandoned drycleaning facility, wholesale distribution facility, or at the real property of any impacted third party, or any adjacent land owner(s) which may have failed to operate as a permitted treatment, storage or disposal facility as defined under AHWMMMA; or

(d) Replace any drycleaning unit that was in operation prior to May 24, 2003 unless required by ADEM Admin. Code Regulations or by any federal laws promulgated by the United States Environmental Protection Agency.

(2) Any eligible entity shall be required to:

(a) Submit a report to the Department of any actual or suspected contamination.

(b) Commence initial investigation and, if necessary assessment remediation activities.

(c) Submit as required, all necessary plans and reports as described in 335-16-6.

(d) Comply with generator waste management requirements of 335-16-3.

**Authors:** Lawrence A. Norris.

**Statutory Authority:** Code of Alabama 1975, §§ 22-30D-4 and 22-30D-9.

**History:** July 25, 2003; **Proposed:** November 18, 2021.

**335-16-5-.02 Performance Standards.** Compliance with performance standards for new drycleaning facilities are required upon the effective date of these regulations. Compliance with performance standards for existing facilities shall occur no later than May 23, 2005, and a schedule for the implementation of the standards shall be submitted to the Department within 60 days of the adoption of these regulations. The performance standards at a minimum shall include the following:

(a) Any person who generates regulated waste(s) that contain drycleaning agent(s) at a drycleaning facility or wholesale distribution facility shall ensure delivery of such waste(s) to a facility that is legally authorized to manage or recycle waste(s) that contain drycleaning agents;

(b) Release of wastewater containing drycleaning agent from drycleaning facilities to any sanitary sewer or septic tank, any land or ground application thereof, or any discharge to waters of the State is not authorized;

(c) Mandatory reporting of all releases of reportable quantities of drycleaning agent to the Department;

(d) All drycleaning agents or wastes containing drycleaning agents shall be stored in closed containers and handled so to minimize the risk of leakage or spillage;

(e) Dikes or other containment structures shall be installed around each drycleaning machine and each drycleaning agent or waste storage area, such that the structures shall be capable of containing a release of drycleaning agent;

(f) All containment structures shall be constructed of materials which are impervious to drycleaning agents;

(g) All drycleaning agents shall be delivered to drycleaning machines via closed or direct-coupled systems; and

(h) If applicable, compliance with the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (40 CFR 63, subpart m) and adopted by the Department as ADEM Admin. Code ~~Rule-ruler.~~ 335-3-11-.06(12).

**Authors:** Lawrence A. Norris. **Statutory Authority:** Code of Alabama 1975, §§ 22-30D-4.

**History:** July 25, 2003; **Proposed:** November 18, 2021.

**335-16-6-.02 Property Remediation.**

(1) Remediation Plan Submission. A remediation plan submitted by an eligible entity shall describe in sufficient detail those actions, including remedial activities and land use controls, if appropriate, which are planned to satisfy the remediation requirements for the qualifying property.

(2) Content of Remediation Plan. The plan must identify steps necessary to perform remediation activities for the site. The remediation plan at a minimum must include the following:

(a) A description of remediation to be performed at each area of known contamination at the site will be remediated;

(b) An estimate of the maximum inventory of remediation wastes/contaminated media that will be present on-site during remediation operations;

(c) A detailed description of the methods to be used during the remediation, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all remediation waste, identification of and the type(s) of off-site solid and/or hazardous waste management unit(s) to be used, if applicable;

(d) A detailed description of the process to remove or decontaminate all hazardous residues and contaminated containment system components, equipment, structures, and soils during remediation including, but not limited to:

1. Procedures for cleaning equipment and removing contaminated soils;
2. Methods for sampling and analyzing surrounding soils; and
3. Criteria for determining the extent of remediation necessary to satisfy the remediation requirements;

(e) A detailed description of other activities necessary during the cleanup period to ensure that the remedial activities satisfy remediation performance standards. This description may include, but is not limited to, groundwater monitoring, leachate collection, and run-on and run-off control;

(f) A schedule for remediation of known areas of contamination and if necessary, for remediation of the entire facility. The schedule must include, at a minimum, the total time required to remediate each known area of contamination and the time required for intervening remediation activities which will allow tracking of the progress of the remediation; and

(g) An estimate of the expected year that the remediation process will be complete for eligible sites.

(3) Remediation levels. Target remediation levels may be based on specific requirements of relevant environmental laws or regulations and/or based upon the results of a site-specific risk assessment. Remediation levels based upon a risk assessment must consider the site and all surrounding areas that may be impacted. The risk assessment must reflect current and derived in a manner consistent with Department or Environmental Protection Agency guidelines for assessing human and environmental health risks from hazardous constituents.

(4) Remedial Action Measures. Remediation levels shall be set in accordance with 335-16-6-.02(3) for all media, for all hazardous constituents, a subset of hazardous wastes, or for those hazardous constituents that the eligible entity or the Department has reason to believe may have been released at the facility. Should the concentration of a hazardous constituent(s) in an aquifer, surface water, soils, sediments or air exceed its remediation level for any environmental medium, the Department may require the remediation plan to include measures as necessary to protect human health and the environment.

(5) Property Use Considerations.

(a) A site shall be deemed to have met the requirements for unrestricted use if the remedial levels are derived in a manner consistent with Department ~~or Environmental Protection Agency~~ guidelines for assessing human and environmental health risks from hazardous constituents.

(b) For sites that do not achieve the unrestricted use classification, appropriate restrictions on future site use shall be applied in accordance with the requirements of the Uniform Environmental Covenants Program contained in ADEM Admin. Code Division 335-5. Restrictions shall include, but are not limited to, institutional and engineering controls. The restrictions imposed upon a site will be media-specific, i.e. soil and groundwater, and may vary according to site-specific conditions. All restrictions on use necessary to attain this standard shall be described in the certification of compliance or remediation as provided in 335-16-6-.03.

(6) Remediation Plan Amendment. The eligible entity may amend the remediation plan at any time prior to the notification of remediation of the site. An eligible entity with an approved remediation plan must submit a

written request to the Department to modify the approved plan. The written request must include a copy of the amended plan.

(a) The eligible entity must amend the remediation plan whenever:

1. Changes in operating plans or facility design affect the remediation plan;

2. There is a change in the expected year of remediation, if applicable;

3. In conducting remediation activities, unexpected events require a modification of the remediation plan; and/or

4. The eligible entity determines that it is necessary or advisable to make changes and/or deviations in remediation requirements that affect either remediation activities or the degree of remediation initially proposed.

(b) An eligible entity with an approved remediation plan shall submit the modified plan to the Department at least 60 days prior to the proposed change in facility design or operation, or no more than 30 days after an unexpected event has occurred which has affected the remediation plan. If an unexpected event has occurred during the remediation period, the eligible entity shall submit the modified plan no later than 30 days after the unexpected event.

(c) If at any time an eligible entity determines that any element of an approved remediation plan must be modified in order to terminate activities at the property for any reason, the eligible entity shall notify the Department and obtain approval of the proposed modification.

(d) The Department may request modifications to the plan under the conditions described in 335-16-6-.02(8)(b) or 335-16-6-.02(8)(c). An eligible entity with an approved remediation plan shall submit the modified plan within 60 days of the request from the Department or within 30 days if an unexpected event occurs during remediation.

(7) Processing of Remediation Plan.

(a) The Department shall determine the completeness of every remediation plan submitted for approval using the requirements of 335-16-6-.02(2). Upon completion of the review, the Department shall notify the eligible entity in writing after determining that the plan is complete. If the plan is incomplete, the Department:

1. Shall list the information necessary to make the plan complete;

2. Shall specify a date for submitting the necessary information;

and

3. May request any information necessary to clarify, modify, or supplement previously submitted material.

(b) Once a remediation plan is determined to be complete, the Department will provide the opportunity for public input as set forth by 335-16-7-.02(2).

(8) Implementation of Remediation Plan.

(a) Upon the Department's approval of the remediation plan, the eligible entity shall then implement the plan.

(b) Should the Department determine activities at the property are not consistent with the remediation plan, the Department may, after reasonable opportunity to rectify the deficiency, revoke liability protection by providing the eligible entity with written notification specifying the basis for making such determination and requesting modification and resubmission of a modified plan or an opportunity to address any deficiencies in implementing the remediation plan within a reasonable specified time.

(c) Should the eligible entity or the Department determine that any element of an approved remediation plan must be modified in order to develop the information necessary to perform a risk assessment or identify applicable remediation requirements for the qualifying property, the eligible entity shall modify the approved plan and obtain approval of the proposed modification.

(d) An eligible entity shall keep records of any test results, waste analyses, determinations made in accordance with the property assessment plan and/or the property remediation plan, and of off-site disposal locations, waste types and quantities for a period of three years.

(9) Removal of Wastes and Decontamination or Dismantling of Equipment. Nothing in 335-16-4 shall preclude the eligible entity from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved remediation plan at any time before or after notification of remediation.

(10) Certification of Compliance. Within 60 days of completion of remediation, the eligible entity shall submit to the Department, by registered mail, a certification that the area of contamination, unit, or the entire facility, as applicable, has been remediated in accordance with the specifications in the approved remediation plan. Certain information required by 335-16 involves the practice of engineering and/or land surveying, as those terms are defined in Code of Alabama 1975, as amended, §§ 34-11-1 to 34-11-37; and/or the practice of geology, as that term is defined in Code of Alabama 1975, as amended, §§ 34-41-1 to 34-41-24. It is the responsibility of any person preparing or submitting such information to ensure compliance with these laws and any regulations promulgated thereunder, as may be required by the

State Board of Registration for Professional Geologists. All submissions, or parts thereof, which are required by State law to be prepared by a licensed

engineer, land surveyor, or geologist, must include the engineer's, land surveyor's, and/or geologist's signature and/or seal, as required by the applicable licensure laws.

(11) Remediation Status Report. In addition to the requirements of 335-16-6-.02(10), an eligible entity shall, upon completion of those activities specified in the remediation plan, submit to the Department a compliance status report certifying the compliance of the qualifying property with the remediation requirements. The qualifying property shall be deemed in compliance with the remediation requirements upon the eligible entity's receipt of the Department's written "Letter of Concurrence" with the property remediation report. If the remediation was conducted prior to submission of the application, all pertinent information from the original assessment and remediation plans shall be incorporated in the property remediation status report.

(12) Restricted Use Property. For those properties that are cleaned to standards less stringent than those required for unrestricted residential use, the property owner shall comply with the requirements of 335-16-7-.03(3) within 60 days of the submission of the certification of compliance.

(13) Relief from Liability. Upon the Department's concurrence with the certification of compliance, the eligible entity shall be relieved of further liability to the State for the restoration of the property under Title 22, Chapters 22, 27, 30, 30A, and 35 of the Code of Alabama 1975, and for any contamination identified and addressed in reports, assessments, or plans submitted to and approved by the Department to demonstrate compliance with the approved remediation levels.

**Authors:** Lawrence A. Norris; Pamela R. Wilson; [Clethes Stallworth](#); [Ashley S. Powell](#).

**Statutory Authority:** Code of Alabama 1975, § 22-30D-9.

**History:** July 25, 2003; **Proposed:** November 18, 2021.

**Attachment 6**



BEFORE THE  
ENVIRONMENTAL MANAGEMENT COMMISSION  
OF THE  
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

In the matter of:	)	
	)	
Jet-Pep, Inc.	)	
Petitioner,	)	EMC Docket No. 21-04
v.	)	
Alabama Department of	)	
Environmental Management,	)	
Respondent.	)	

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ORDER

Before the Commission in the above appeal is the Hearing Officer's *Recommendation of Dismissal*. Based upon the record in the proceeding, including the Petitioner's *Voluntary Motion to Dismiss*, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the Hearing Officer's *Recommendation of Dismissal* is hereby adopted; and
2. That pursuant to the adoption of the Hearing Officer's *Recommendation of Dismissal*, the Commission orders that the Petitioner's *Voluntary Motion to Dismiss* is granted and the above appeal is dismissed with prejudice; and
3. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below; and
4. That a copy of this Order along with a copy of the Hearing Officer's *Recommendation of Dismissal*, attached hereto as Exhibit "A," and made a part hereof, shall be forthwith served upon each of the parties hereto either personally, or by certified mail, return receipt requested.

Alabama Environmental Management Commission Order  
Page 2

ISSUED this 11th day of February 2022.

APPROVED:

  
\_\_\_\_\_  
Commissioner

  
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Commissioner

  
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DISAPPROVED:

\_\_\_\_\_  
Commissioner

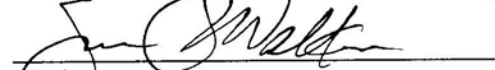
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Commissioner

ABSTAINED:

\_\_\_\_\_  
Commissioner

This is to certify that this Order is a true and accurate account of the actions taken by the Environmental Management Commission on this 11th day of February 2022.

  
\_\_\_\_\_  
Chair  
Environmental Management Commission  
Certified this 11th day of February 2022

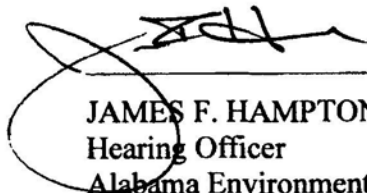
**BEFORE THE  
ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION**

JET-PEP, INC.	)	
	)	
Petitioner,	)	
	)	
v.	)	EMC DOCKET NO. 21-04
	)	
ALABAMA DEPARTMENT OF	)	
ENVIRONMENTAL MANAGEMENT,	)	
	)	
Respondent.	)	

RECOMMENDATION OF DISMISSAL

This matter comes before the undersigned by way of the Petitioner’s Voluntary Motion to Dismiss dated December 10, 2021. That motion states that the matters raised in the above proceeding have been settled and otherwise resolved. Upon consideration of said motion, the undersigned RECOMMENDS to the Commission that such motion be granted and further RECOMMENDS that the Commission dismiss the matter with prejudice

Done and entered this the 28<sup>th</sup> day of December, 2021.

  
 \_\_\_\_\_  
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