

335-15-1-.01 Purpose. These regulations are promulgated pursuant to the Alabama Land Recycling and Redevelopment Act, Code of Alabama, 1975, § 22-30E-4. The Brownfield Redevelopment and Voluntary Cleanup Program provides a mechanism for the implementation of a cleanup program that encourages applicants to voluntarily assess, remediate, and reuse rural and urban areas of actual or perceived contamination. The program is designed to expedite the voluntary cleanup process and has been designed for entry at any stage of the cleanup process as long as all applicable criteria have been achieved up to the point of entry.

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Statutory Authority: Code of Alabama, 1975, §§ 22-30E-1, 22-30E-2, and 22-30E-4.

History: May 16, 2002.

Amended: November 25, 2004. Amended: Proposed: December 20, 2021.

335-15-1-.02 Definitions. Unless otherwise defined in ADEM Admin. Code ~~R-~~ 335-15-1 through 335-15-~~67~~, the following words and terms shall have the meanings given below:

(a) "Alabama Land Recycling and Economic Redevelopment Commission" is the commission as established in the Code of Alabama, 1975 § 22-30E-12.

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

(c) "Applicant" is the owner, operator or prospective purchaser seeking to participate in the voluntary cleanup program by submission of an application, ~~assessment, and/or cleanup plan~~ under 335-15-2-.02.

(d) "Application fee" means the nonrefundable review fee submitted with the Voluntary Cleanup Program application.

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

(f) "Brownfield" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or ~~potential-perceived~~ presence of a hazardous substance, pollutant or contaminant.

(g) "Carcinogen" means a chemical classification for the purpose of risk assessment as an agent that is known or suspected to cause cancer in humans, including but not limited to a known or likely human carcinogen or a probable or possible human carcinogen under an EPA weight-of-evidence classification system.

(h) "Certification of compliance" means a statement prepared by a professional engineer or geologist licensed to practice in the State of Alabama which certifies compliance with a voluntary cleanup plan required by 335-15-4-.06.

(i) "Cleanup" means, for purposes of 335-15, the remediation, mitigation, control, or removal of contaminants from the environment in accordance with an approved "Voluntary Cleanup Plan".

(j) "Cleanup Properties Inventory" means the Voluntary Cleanup Properties Inventory compiled and updated as necessary by the Department pursuant to 335-15-6-.03(1) for all qualifying properties for which a property assessment plan or cleanup plan has been approved.

(k) "Commission" means the Alabama Environmental Management Commission as defined in Code of Alabama 1975 § 22-22A-3(4).

(l) "Completion" means fulfillment of the commitment agreed to by the participant as part of this program.

(m) "Contaminant" ~~means any substance which results in man-made or man-induced~~ alteration of the chemical, physical or biological integrity of soils, sediments, air and surface water or groundwater including:

1. Solid waste (as defined in ADEM Admin. Code 335-13); or
2. Petroleum product~~(s)~~.

(n) "Department" means the Alabama Department of Environmental Management or its successor agency.

(o) "Director" means the Director of the Alabama Department of Environmental Management or such other person to whom the director has delegated authority.

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

(q) "Engineer" means a person registered as a professional engineer with the State of Alabama Board of Registration for Professional Engineers and Land Surveyors and practicing under the Rules of Professional Conduct, specifically Canon II.

(r) "Environment" is defined by the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C., Section 9601, et seq.

(s) "Environmental Covenant" as defined in ADEM Admin. Code 335-5-1-.03~~(f)~~.

(~~t~~) "Facility" is a term synonymous with "property".

(~~tu~~) "Fiduciary" means a person who acts for the benefit of another party as a bona fide trustee, executor, and/or administrator.

(~~ty~~) "Geologist" means a person registered as a professional geologist with the State of Alabama pursuant to the Alabama Professional Geologist Licensing Act.

(~~w~~) "Hazardous constituent" as defined in ADEM Admin. Code 335-14-2-Appendix VIII and/or ADEM Admin. Code 335-14-5-Appendix IX.

(~~w~~) "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 335-15-1 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 335-15 and subsequent revisions thereof.

(~~xy~~) "Hazardous waste" means any solid waste as defined in ADEM Admin. Code 335-14.

(yz) "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.

(zaa) "Land Use Controls" means any restriction or control, which serves to protect human health and/or the environment, by limiting the use of and/or exposure to, any portion of a property, including water resources. These controls include but are not limited to:

1. Engineering controls for 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.

(aabb) "Major Modification" means any modification that is not a minor modification.

(bbcc) "Minor Modification" means any administrative and/ or general information changes, correction of typographical errors, changes in ownership and or operational control, and changes in the frequency of, or procedures for, monitoring, reporting or sampling by the applicant to provide for more frequent monitoring, reporting or sampling.

(eedd) "Mitigation" means reducing to the extent possible, or rectifying, the adverse impact by repairing, rehabilitating, restoring, or limiting exposure to the affected environment.

(deee) "Noncarcinogen" is a chemical classification, for the purposes of risk assessment, as an agent for which there is either inadequate toxicological data or which is not likely to be a carcinogen, based on an EPA weight-of-evidence classification system.

(eeff) "Operation and Maintenance" means any action(s) required to operate and/or maintain the processes in place to minimize any potential exposures to environmental concerns on a property.

(ffgg) "Owner or Operator"

1. The definition includes the following:
 - (i) In the case of a facility, any person owning or operating such facility.
 - (ii) Any person who owned, operated, or otherwise controlled activities at a facility immediately prior to conveyance of title to a unit of state or local government or control of the facility due to bankruptcy, foreclosure, tax delinquency, or abandonment.

2. The definition does not include the following:

(i) A person who can show evidence of ownership, ~~and~~ acting solely in a fiduciary capacity, and who did not actively participate in the management, disposal, or release of hazardous wastes, hazardous constituents, or hazardous substances from the facility.

(ii) A unit of a state or local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquire title by virtue of its function as sovereign. This exclusion shall not apply to any state or local government which has caused or contributed to the release of hazardous wastes, hazardous constituents, or hazardous substances from the facility.

(gghh) "Parent" has the same meaning as in 17 CFR 240.12b-2 (1 April 1996 Edition).

(hhii) "Participant" means a person who has received confirmation of eligibility and has remitted payment of application fee.

(#ij) "Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation or any other legal entity.

(jjkk) "Petroleum" means oil or petroleum of any kind and in any form, including, without limitation, crude oil or any fraction thereof, petroleum, gasoline, kerosene, fuel oil, oil sludge, used oil, substances or additives utilized in the refining or blending of crude petroleum or petroleum stock, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, and mixtures of natural gas and synthetic gas.

(kkll) "Pollutant" includes but is not limited to dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste. [Note: Some materials that meet the definition of "pollutant" may not meet the criteria to be considered a solid waste, whether hazardous or nonhazardous.]—

(~~hmm~~) "Preexisting release" means a release, as that term is defined in 335-15-1-.02, which occurred prior to an applicant's application for a limitation of liability pursuant to 335-15-4-.02.

(~~mmnn~~) "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 applicable deed.

(~~noo~~) "Prospective developer" means any person who desires to buy or sell a brownfield property for the purpose of developing or redeveloping that brownfield property and who did not cause or contribute to the contamination at the brownfield property.

(~~oopp~~) "Prospective purchaser" means a person who intends to purchase a qualifying property.

(~~ppqq~~) "Qualifying property" means a property which meets the criteria of 335-15-2-.01(1).

(~~qqrr~~) "Relatives" means persons who are, or formerly were, related by marriage or by consanguinity.

(~~rss~~) "Release" means any intentional or unintentional act or omission resulting in the spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including without limitation, the abandonment or discarding of barrels, containers, and other closed receptacles, of any solid waste, hazardous waste, hazardous constituent, petroleum products, or hazardous substance.

(~~stt~~) "Remediation waste" means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediment) and debris that contain hazardous substances which are managed for implementation of the cleanup.

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

(~~uvv~~) "Residential" means single family residences of one or more dwelling units, including accessory land, buildings or improvements incidental to such dwellings.

(~~www~~) "Response Action" means those actions taken in the event of a release or threatened release of a hazardous waste, hazardous constituent, petroleum product, or hazardous substance into the environment to remove, or to prevent or minimize the release of hazardous waste, hazardous constituents, petroleum products, or hazardous substances so that they do not pose a threat to public health and/or the environment.

(~~wwwxx~~) "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. This term specifically includes those persons described in §§107(a)(1) through 107(a)(4) of the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C., Section 9601, et seq. This term specifically excludes those persons described in § 107(b) of the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C., Section 9601, et seq.

(~~xyy~~) "Restricted use" means any use other than unrestricted residential use.

(~~yyzz~~) "Risk assessment" means the process used to determine the risk posed by contaminants that have been released into the environment at a site. The process includes a written site specific evaluation, encompassing, but 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, the characterization of risks to humans, and the characterization of the impacts or risks to the environment.

(~~zzaaa~~) "Site" means any property or portion thereof, as agreed to and defined by the participant and the Department, which contains or may contain contaminants being addressed under this program.

(~~aaabb~~) "Source" means the point of origin of a suspected contaminant.

(~~bbbccc~~) "Subsidiary" has the same meaning as in the 17 CFR 240.12b-2 (1 April 1996 Edition).

(~~eeeddd~~) "Third party" means one not a party to an agreement or to a transaction but who may have rights therein.

(~~dddeee~~) "Unrestricted residential use" means the designation of acceptable future use at a site for any and all activities associated with residential use at which the remediation levels, based on either background or standard residential exposure factors, shall have been attained throughout the site in all media.

(~~eeefff~~) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use, is contaminated by physical or chemical impurities.

(fff) "Upper-bound lifetime cancer risk level" means a conservative estimate of the probability of one excess cancer occurrence in a given number of exposed individuals. For example, a risk level of 1×10^{-6} equates to the possibility of one additional cancer occurrence beyond the number of occurrences that would otherwise occur in one million exposed individuals, beyond the number of occurrences that would otherwise occur. Upper-bound lifetime cancer risk level is based on an assumption of continuous, lifetime exposure and is likely to overestimate true risk.

(ggg) "Voluntary eCleanup pPlan" means any plan approved under 335-15-4-.04 that describes in sufficient detail those actions planned to satisfy the cleanup requirements for the qualifying property.

(iii) "Voluntary Cleanup Report" means a final report of the cleanup of the entire facility in accordance with the specifications in the approved cleanup plan.

(hhh) "Voluntary Property Assessment Plan" means a plan that has been approved by the Department under 335-15-4-.03 and describes in sufficient detail those actions planned to perform a risk assessment or identify applicable cleanup requirements for the property.

(kkk) "Voluntary Property Assessment Report" means a report of the assessment and findings from a Voluntary Property Assessment which may include a recommendation for applying cleanup standards to the property.

(lll) "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

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Statutory Authority: Code of Alabama, 1975, § 22-30E-3.

History: May 16, 2002; **Amended:** Effective: November 25, 2004; **Amended:** Filed: February 28, 2020; Effective: April 13, 2020; **Amended: Proposed Rules :** December 20, 2021.

335-15-3-.01 Purpose. To establish procedures necessary for the submission of a complete and accurate application package thereby facilitating timely and efficient processing and review. Application packages shall be submitted with the appropriate fees as specified in ADEM Admin. Code R. 335-1-6 (See Fee Schedule H). Applications may be submitted using ADEM Form 521 (Voluntary Cleanup Program Application). As appropriate, the application package may be submitted individually or in conjunction with the Voluntary Assessment Plan or Report, Voluntary Cleanup Plan or Report, or the Certification of Compliance.

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Statutory Authority: Code of Alabama, 1975, § 22-30E-5.

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335-15-3-.02 Application Package Submittal.

(1) Application Requirements. An application package submitted to the Department under 335-15-3 shall, at a minimum provide the following information in the form specified by the Department:

(a) Applicant description.

1. Full name of applicant;
2. Applicant's complete mailing address; and
3. Applicant's telephone number.

(b) The location of the property.

1. Street address and zip code;
2. Municipality or community;
3. County;
4. United States Geological Survey (USGS) 7.5 minute quadrangle with the site delineated; ~~and~~

5. Longitude and latitude; and

6. Legal description of the property.-

(c) Current ownership description.

1. Full name of owner;
2. Year(s) of ownership;
3. Current owner(s) name and title;
4. Current owner(s) address; ~~and~~
5. Current owner(s) telephone number; ~~and-~~

6. Current owner(s) email address.

(d) Recent available history of the site. The application shall include a description, including time frames, of the current and past usage of the property, to the extent known or reasonably ascertainable.

(e) Property features. The application shall include the results of a property inspection, to include the presence of various property structures and features. The property inspection shall state the date of the inspection, and the name of the person conducting the inspection.

(f) Maps.

1. Legible property maps describing the locations of all units, structures, features, and potential sources of contamination. The maps shall be scaled and include:

(i) Location of all water bodies, ponds, springs, rivers and streams (including subterranean), estuaries, and wetlands;

(ii) Land use of contiguous properties and boundary lines;

(iii) Engineering structures such as drainage ways, diversion ditches, drain tiles, manholes, water lines, and sewers;

(iv) Highways, roads, roadcuts, paved or black-topped areas, and railroad lines;

(v) Outcrops, faults, caves, and sinkholes; and

(vi) Any other structures found during the preparation of the application.

2. The maps must include:

(i) An appropriate bar scale;

(ii) A north arrow; and

(iii) A legend.

(g) If applicable, request for a variance including such information as the applicant believes is relevant to the issuance of a variance under 335-15-2-.03(2).

(h) If applicable, a list of all orders, citations, and notices of violation to the applicant for any violations or alleged violations of environmental permits, laws and/or regulations. The applicant shall include a brief description of the violation(s) and the terms and status of any required remedial action(s) associated with the violations.

1. Any person signing a document under 335-15-3 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the

information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant

penalties for submitting false information, including the possible revocation of the limitations of liability and removal from the program."

2. Reserved.

(i) Provide any other information requested by the Department. The Department will review the application to verify that:

1. The application is complete; and

2. The applicant and the site meet the eligibility criteria set forth in 335-15-2-.01 and 335-15-2-.02 or is entitled to a variance as set forth in 335-15-2-.03.

(2) Property Use. The applicant shall be solely responsible for insuring that proposed use of the property will comply with all applicable zoning requirements.

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Statutory Authority: Code of Alabama, -1975, §§ 22-30E-2, 22-30E-4, 22-30-19, and 22-30-20.

History: May 16, 2002.

Amended: November 25, 2004; **Amended:** Proposed: December 20, 2021.

335-15-3-.03 Application Processing.

(1) Application Review. The Department shall review each application submitted for compliance with 335-15-3-.03(2). Upon completion of the initial review, the Department shall notify the applicant in writing whether the application is complete or deficient. If the application is incomplete or inaccurate, the Department:

(a) Shall request from the applicant any and all information necessary to correct the noted deficiencies;

(b) Shall notify the applicant of a date for submitting the necessary information; and

(c) May request any information necessary to clarify, modify, or supplement previously submitted material.

(2) Approval of Application. The Department shall approve an application once it is determined to be complete. An application is complete when the Department receives all required information identified in 335-15-3-.02.

(3) Disapproval of Application. An application may be disapproved if:

(a) It is ineligible under the Alabama Land Recycling and Economic Redevelopment Act Code of Alabama, 1975 § 22-30E and/or 335-15, or

(b) The applicant fails or refuses to correct deficiency(ies) in a timely manner.

(4) Non-Refundable Application Fee. The applicant is not entitled to a refund of the application fee for an application disapproved pursuant to 335-15-3.

(5) Application Resubmittal. An application that has been disapproved pursuant to 335-15-3-.03(3) may be submitted a second time without submission of an additional application fee. If an application is disapproved a second time, any subsequent resubmittal shall be accompanied by the appropriate application fee.

(6) Application Modification. If the applicant determines that any elements of an approved application must be modified, the applicant shall modify the approved application and submit the proposed modification for approval along with the appropriate fees.

Authors: Fred A. Barnes; Keith N. West; Lawrence A. Norris; Stephen A. Cobb; Vernon H. Crockett; Sonja B. Favors; Pamela W. Luckie; Crystal L. Collins.

Statutory Authority: Code of Alabama, 1975, §§ 22-30E-2 and 22-30E-4.

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Filed: February 28, 2020; Effective: April 13, 2020. Amended: **Proposed:**
December 20, 2021.

335-15-4-.01 Purpose. Establishes criteria for the submission of voluntary property assessment plans and other technical information, liability limitations, assessments, plans, cleanup requirements, and certification of compliance.

Authors: Fred A. Barnes; Keith N. West; Lawrence A. Norris; Stephen A. Cobb.

Statutory Authority: Code of Alabama, 1975, § 22-30E-9.

History: May 16, 2002.

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335-15-4-.02 Limitation of Liability Qualifications.

(1) Limitation of liability criteria. To qualify for a limitation of liability as provided in Code of Alabama 1975, §§ 22-30E-10(b), an applicant shall meet all the following criteria:

(a) The applicant shall not be a responsible person, as defined in 335-15-1-.02, at the qualifying property.

(b) Where the applicant is an individual, the individual shall not:

1. Be a relative by blood within the third degree of consanguinity or by marriage; or

2. Be an employee, shareholder, officer, or agent; or otherwise be affiliated with a current owner of the subject property or any responsible person on the subject property.

(c) Where the applicant is a corporation or other legal entity, the corporation must not:

1. Be a current or former subsidiary, division, parent company, or partner of a current owner; or

2. Be the employer or former employer of the current owner; or

3. Be any responsible person on the subject property.

(d) The limitation of liability provided by Code of Alabama, 1975, §§ 22-30E-10 shall be contingent upon the applicant's good faith implementation of the voluntary property assessment and/or voluntary cleanup plan as approved by the Department. Such limitation of liability shall not be applicable to any activities conducted on the qualifying property before the Department's approval of the voluntary property assessment plan, cleanup plan, or concurrence with a certification of compliance, whichever occurs first.

(2) Inability to meet limitation of liability criteria. Applicants who do not meet the criteria in 335-15-4-.02(1), shall qualify only for a limitation of liability upon acceptance by the Department of the certification of compliance for cleanup of the site.

(3) Revocation of limitation of liability. If the Department determines the assessment or cleanup is not being implemented in accordance with the approved plan, it will notify the applicant and give reasonable opportunity to correct the deficiency. Failure to correct noted deficiencies shall result in the revocation of the limitation of liability protection afforded by the Alabama Land Recycling and Economic Redevelopment Act.

(4) Fiduciary limitation of liability. A lender, including one serving as a trustee, personal representative, or in any other fiduciary capacity in connection with a loan, or a lender holding evidence of ownership of a

qualifying property primarily to protect a security interest, or as a result of foreclosure or a deed in lieu of foreclosure of a security interest, is entitled to the liability protection established in Code of Alabama 1975 § 22-30E-9 if the lender meets each of the following requirements:

(a) The lender has not caused or contributed to a release of a contaminant at the qualified property;

(b) The lender seeks to sell, transfer, or otherwise divest the qualifying property at the earliest time; and

(c) The lender has not divested the borrower of, or otherwise engaged in, decision-making control of assessment or cleanup activities at the qualifying property or operations at the qualifying property or undertaken management activities beyond those required to protect its financial interest while making a good faith effort to sell the qualifying property;

(5) Extension of Limitation of Liability. The limitation of liability provided by Code of Alabama 1975 § 22-30E-10 shall extend to the heirs, assigns, and designees of the person to whom such limitation of liability is granted; provided, however, that, except as may be provided by Code of Alabama, 1975 § 22-30E-9(a) or § 22-30E-9(f), such extension of the limitation of liability shall not operate to absolve from liability any party deemed to be a responsible person on the qualifying property.

(6) Departmental Response to Release. Nothing in 335-15-4 shall limit the authority of the Department to take action in response to any release or threat of release of regulated substances.

(7) Preexisting And New Release Liability. Upon the Department's approval of a voluntary property assessment plan, voluntary cleanup plan, or a certification of compliance, an applicant who is not a responsible person at the qualifying property, shall not be liable to the state or any third party for costs incurred in the investigation or cleanup of, or equitable relief relating to, or damages resultant from, in whole or in part, a preexisting release at the qualifying property, including, but not limited to, any liability to the state for the cleanup of the property under Title 22, Chapters 22, 27, 30, 30A, and 35 of the Code of Alabama, 1975, or a new release of a substance, constituent, or material which had been part of a preexisting release at the property, unless such new release results from noncompliance with an approved voluntary property assessment plan or voluntary cleanup plan or from the negligent, wanton, willful, or intentional conduct of the applicant.

(8) Regulatory Compliance and Limitation of Liability. If, during the course of the assessment and or remediation process, the site becomes an active industrial facility, the facility will then be responsible for maintaining compliance with all applicable state and federal regulations. The limitation of liability does not extend to:

(a) Release(s) as a result of new industrial activity occurring during the assessment and, or remediation phase of the cleanup;

(b) Activities not described in the voluntary cleanup assessment plan or the voluntary cleanup work plan(s); or

(c) Release(s) that occur after Departmental acceptance of certification of compliance.

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Statutory Authority: Code of Alabama, 1975, §§ 22-30E-8, 22-30E-9, and 22-30E-10.

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Amended: November 25, 2004; **Amended:** Proposed: December 20, 2021.

335-15-4-.03 Voluntary Property Assessment Plans.

(1) Submission.

(a) After acceptance of the application by the Department as required in 335-15-3-.03, the applicant shall submit for approval, a complete and comprehensive ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan for the site.

(b) If a property assessment has already been performed, a complete and representative ~~Voluntary Property a~~Assessment ~~r~~Report shall be submitted to the Department for review in accordance with 335-15-4-.03(8)(b).

(2) Content. A ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan submitted by an applicant shall describe in sufficient detail those actions planned to develop information necessary to perform a risk assessment or identify applicable cleanup standards for the qualifying property utilizing requirements found in the ~~ARBCA:~~ Alabama Risk-based Corrective Action Guidance ([ARBCA](#)) Manual or other appropriate risk-based corrective action principles through the appropriate implementation of applicable response actions and/or land use controls. The plan should describe the methods to be used to determine the type(s) and the amount(s) of any contamination including the delineation of all soil and groundwater contamination discovered or known to exist on-site. Information previously submitted in the application package need not be resubmitted unless, during the assessment phase, information is discovered which is contrary to that information in the application package. Information submitted in the ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan shall be submitted in a format consistent with the Alabama Environmental Investigation and Remediation Guidance ([AEIRG](#))~~document~~.

(a) A ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan submitted by a responsible party must delineate the horizontal and vertical extent of contamination in groundwater on-site and off-site beyond the property boundary. Such delineation of groundwater contamination shall be contained in a written report authored, signed and sealed by a qualified professional geologist or engineer licensed in the State of Alabama.

(b) A ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan submitted by a non-responsible party must delineate the horizontal and vertical extent of contamination in groundwater on-site only. Such delineation of groundwater contamination shall be contained in a written report authored, signed and sealed by a qualified professional geologist or engineer licensed in the State of Alabama.

(3) Approval. The Department shall approve a complete ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan within 60 days of submittal. The plan shall be considered approved if the Department fails to act within this timeframe.

(4) Implementation. Upon approval of the ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan, the Department shall specify a time within which the

applicant shall implement the approved ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan. The applicant shall implement the plan in accordance with the specified schedule.

(5) Loss of Limitation of Liability. If the Department determines activities at the property are not being implemented in accordance with the approved ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan, it will notify the applicant and give reasonable opportunity to remedy the deficiencies. Failure to correct deficiencies will result in the loss of liability protections provided by Code of Alabama, 1975, § 22-30E-10. The applicant will be provided with written notification specifying the basis for making such determination.

(6) Modification. If the applicant determines that any element of an approved ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan must be modified in order to develop the information necessary to perform a risk assessment or identify applicable cleanup requirements for the qualifying property, the applicant shall modify the approved plan and submit the proposed modification for approval.

(7) Termination. If the applicant determines that any element of an approved ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan must be modified in order to terminate activities at the property, the applicant shall notify the Department and obtain approval of the proposed modification. Approval may be withheld only if the requested modification to terminate assessment activities would increase the risk to human health and the environment posed by the conditions at the property within a specified time.

(8) Voluntary Property Assessment Report.

(a) An applicant shall, upon completion of those activities specified in the ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~p~~Plan, submit to the Department a report of the assessment and findings from the assessment, which may include a recommendation for applying cleanup requirements to the property.

(b) If an assessment has been conducted prior to submission of an application, all pertinent information from that assessment shall be incorporated in the ~~v~~Voluntary ~~p~~Property ~~a~~Assessment ~~r~~Report.

(c) When a Voluntary Property Assessment Report proposes an Environmental Covenant as the sole and final remedy for the site, the Department will provide for public comment in accordance with 335-15-6-.02(1). The draft Environmental Covenant shall be included in the Public Notice.

Authors: Lawrence A. Norris; Stephen A. Cobb; Vernon H. Crockett; Sonja B. Favors; Lynn T. Roper; M. Gavin Adams; Austin R. Pierce; Pamela L. Monaghan.

Statutory Authority: Code of Alabama, 1975, § 22-30E-9.

History: May 16, 2002; **Amended:** Effective: November 25, 2004; **Amended:** Effective: September 19, 2006; **Amended:** Filed: February 28, 2020; Effective: April 13, 2020; **Amended:** Proposed: December 20, 2021.

335-15-4-.04 Voluntary Cleanup-Work Plans.

(1) Submission. An acceptable ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan shall describe in sufficient detail those actions necessary to return the property to residential quality use, or at a minimum include restrictions such as land use controls, if appropriate to, satisfy the cleanup requirements for the qualifying property.

(2) Content. The plan must identify those steps necessary to perform approved cleanup for the site. At a minimum, the cleanup plan must include:

(a) A description of the remediation at each area of known contamination;

(b) A description of the conduct of the cleanup at the facility;

1. A detailed description of the methods to be used during cleanup, including but not limited to, removing, transporting, treating, storing, or disposing of all remediation waste, identification of the type(s) of off-site solid and/or hazardous waste management unit(s) to be used, if applicable.

2. A detailed description of the steps needed to remove or decontaminate all hazardous residues and contaminated containment system components, equipment, structures, and soils during cleanup including, but not limited to:

(i) Procedures for cleaning equipment and removal of contaminated soils;

(ii) Methods for sampling and testing surrounding soils,

(iii) Criteria for determining the extent of remediation necessary to satisfy the cleanup requirements, and

(iv) An estimate of the expected year of cleanup for facilities that use trust funds to demonstrate financial assurance under 335-15-5-.02(b).

3. A detailed description of other activities necessary during or after the cleanup period to ensure compliance with the cleanup performance requirements. This description may include operation and maintenance, such as, but not limited to groundwater monitoring, leachate collection, and run-on and run-off control;

4. A schedule for cleanup of known areas of contamination. At a minimum, the schedule must include the total time necessary to remediate each known area of contamination and the time required for cleanup activities;

5. Provide proof of financial assurance in accordance with 335-15-5; and

6. An estimate of the expected year of cleanup for facilities that use trust funds to demonstrate financial assurance under 335-15-5-.02(b).

(c) An estimate of the maximum inventory of remediation wastes/contaminated media on-site during cleanup operations.

(d) A ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan submitted by a responsible party must provide for remediation of all contamination described in the property assessment report whether on-site or off-site beyond the property boundary.

(e) A ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan submitted by a non-responsible party must provide for remediation of all contamination described in the property assessment report on-site only.

(3) Amendments/Modifications. The applicant may ~~amend~~-~~modify~~ the approved cleanup plan at any time prior to the notification of cleanup by submitting a written request to the Department. The request for modification approval must include a copy of the amended cleanup plan.

(a) The applicant must ~~amend~~-~~modify~~ the cleanup plan whenever:

1. Changes in operating plans or facility design affect the cleanup plan;

2. There is a change in the expected year of cleanup, if applicable;

3. Unexpected events encountered during cleanup require a modification of the cleanup plan; and/or

4. The applicant determines that it is necessary or advisable to make changes and/or deviations in cleanup requirements that affect either cleanup activities or the degree of remediation initially proposed.

(b) An applicant with an approved cleanup plan shall submit ~~the modified plan~~ a request for modification 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 cleanup plan. ~~A major modification is an amendment to the plan that meets criteria described in 335-15-4-.04(3)(a).~~

(c) If at any time an applicant determines that any element of an approved voluntary cleanup plan must be modified in order to terminate activities at the property, the applicant shall notify the Department and obtain approval of the proposed modification which may be withheld only if the requested modification would increase the risk to human health and the environment posed by conditions at the property.

(4) Processing.

(a) Within 60 days of submittal, the Department shall either approve a complete ~~or amended~~-~~modified~~ ~~V~~voluntary ~~e~~Cleanup ~~p~~Plan, or request corrections to or disapprove the ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan. The plan shall be considered approved if the Department fails to act within this timeframe.

(b) The Department shall review for completeness every cleanup plan submitted for approval as required by 335-15-4-.04(4). Upon completing the review, the Department shall notify the applicant in writing whether 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 in the notice of deficiency a date for submitting the necessary information; and
3. Shall request any information necessary to clarify, modify, or supplement previously submitted material.
4. Disapprove the plan if requested information is not submitted in a timely fashion.

(c) Once a cleanup plan is determined to be complete, the Department will provide for public comment in accordance with 335-15-6-.02(1).

(5) Implementation of Voluntary Cleanup Plan.

(a) Upon the Department approval of a ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan, the applicant shall begin implementation. The Department's approval of a ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan shall in no way be construed as a guarantee, promise, or assurance that the Department will concur with the applicant's ~~e~~Certification of ~~e~~Compliance with the cleanup requirements.

(b) If at any time the applicant or the Department determines that any element of an approved ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan must be modified in order to develop the information necessary to perform a risk assessment or identify applicable cleanup standards for the qualifying property, the applicant shall modify the approved plan and obtain approval of the proposed modification.

(c) An applicant shall retain records of any test results, waste analyses, and determinations made in accordance with the Voluntary Property Assessment Plan and/or the Voluntary Property Cleanup Plan, ~~and~~ as well as records of off-site disposal locations, waste types and quantities, for a period of three years.

(d) The applicant shall submit proof of financial assurance to implement the ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan, in such form as specified by the Department in 335-15-5-.02.

(6) Removal of Wastes and Decontamination or Dismantling of Equipment. Nothing in 335-15-4-.04 shall preclude the applicant from the removal of hazardous wastes, constituents, contaminants or pollutants and decontamination or dismantling equipment in accordance with an approved

cleanup plan either before or after notification of cleanup, provided all appropriate manifesting records are maintained.

(7) Certification of Compliance Voluntary Cleanup Report.

(a) Submission. ~~Within 60 days of completion of cleanup of each area of contamination, and/or w~~Within 60 days of completion of cleanup of the entire site, the applicant shall submit to the Department, by registered mail, a certification report that the area of contamination, unit, or facility site, as applicable, has been remediated in accordance with the specifications in the approved cleanup plan.

(b) Content. The report must detail the actions performed in accordance with the specifications in the approved cleanup plan. At a minimum, the cleanup report must include:

1. The information required by 335-15-4-.04(2).

2. Certification of Compliance.

(i) Within 60 days of completion of cleanup of each area of contamination and/or within 60 days of completion of cleanup of the entire site, the applicant shall submit to the Department, by registered mail, a certification of compliance that the area of contamination, unit, or site, as applicable, has been remediated in accordance with the specifications in the approved cleanup plan.

(ii) Certain information required by 335-15 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. 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.

3. Restricted Use Property. For those properties that are cleaned up to requirements less stringent than those required for unrestricted residential use, the property owner shall comply with the requirements of 335-15-6-.03(3) within 60 days of the submission of the Certification of Compliance.

(b8) Site Cleanup Prior to Submission of the Application. If site cleanup was conducted prior to submission of the application, all pertinent information from the original assessment and cleanup plans shall be incorporated into a Voluntary pProperty aAssessment Report and eCleanup rReport. The site is required to meet all requirements of 335-15 to be eligible for limitation of

liability provisions cited in the Alabama Land Recycling and Economic Redevelopment Act.

~~(8) — Restricted Use Property. For those properties that are cleaned up to requirements less stringent than those required for unrestricted residential use, the property owner shall comply with the requirements of 335-15-6-.03(2) (3) within 60 days of the submission of the eCertification of eCompliance.~~

Authors: Fred A. Barnes; Keith N. West; Lawrence A. Norris; Stephen A. Cobb; James L. Bryant; Vernon H. Crockett; Sonja B. Favors; Pamela W. Luckie; Crystal L. Collins; Lynn T. Roper; [M. Gavin Adams](#); [Austin R. Pierce](#); [Pamela L. Monaghan](#).

Statutory Authority: Code of Alabama, -1975, § 22-30E-9.

History: May 16, 2002; **Amended:** Effective: November 25, 2004; **Amended:** Effective: September 19, 2006; **Amended:** Filed: February 28, 2020; Effective: April 13, 2020; **Amended:** **Proposed: December 20, 2021.**

335-15-4-.05 Cleanup Requirements.

(1) Remediation levels.

(a) The participant, with the concurrence of the Department, shall consider impacts to human health and the environment. In establishing cleanup requirements, remediation levels may be based on specific requirements of relevant environmental laws or regulations (e.g., Clean Water Act, Clean Air Act, TSCA, RCRA, CERCLA, et al.), derived using the procedures outlined in Section 300.430(e)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 300), and/or based upon the results of a site-specific risk assessment.

(b) The Department may set cleanup levels that reflect current and future use scenarios for the property as follows:

1. A site shall be deemed to have met the requirements for unrestricted use if the cleanup levels are derived in a manner consistent with Department or Environmental Protection Agency guidelines for assessing human and environmental health risks from hazardous constituents.

2. For sites that do not achieve the unrestricted use classification, restrictions on site use shall be applied to achieve cleanup standards. Restrictions shall include, but are not limited to, land use controls. The restrictions imposed upon a site shall be media-specific and may vary according to site-specific conditions.

(2) Remedial Action Measures. Remediation levels for all media contaminated with hazardous constituents or hazardous wastes, that the applicant or the Department has reason to believe may have been released at the site shall be determined in accordance with 335-15-4-.05(3). Should the concentration of hazardous constituent(s) in an aquifer, surface water, soil, sediment or air exceed its remediation level, the Department may require the voluntary cleanup plan to include measures as necessary to protect human health and the environment.

(3) Risk Assessment. Remediation levels may be based upon a risk assessment that considers the site and all surrounding areas that may be impacted. This risk assessment must reflect current and future use scenarios.

(4) Property Use Considerations.

(a) A site shall be deemed to have met the requirements for unrestricted residential use if the remedial level(s) satisfy the following criteria:

1. Is derived in a manner consistent with ADEM/EPA guidelines for assessing human and environmental health risks from hazardous constituents;

2. Is based on scientifically valid studies conducted in accordance with the Toxic Substances Control Act (TSCA) Good Laboratory Practice Standards, or equivalent;

3. Represents for human health remediation levels to address carcinogens, a cumulative concentration associated with an excess upper bound lifetime cancer risk range of between 1×10^{-4} and 1×10^{-6} for carcinogens due to continuous constant lifetime exposure; and

4. Represents for human health remediation levels to address noncarcinogens, ~~represents~~ a concentration to which the human population (including sensitive subgroups) could be exposed on a daily basis that is without appreciable risk of deleterious effects during a lifetime.

(b) Applies appropriate restrictions on future use for sites that do not achieve the unrestricted use classification. Restrictions shall include, but are not limited to, institutional and/or engineering controls. The restrictions imposed upon a site will be media-specific and may vary according to site-specific conditions. All use restrictions shall be described in the eCertification of eCompliance.

Authors: Fred A. Barnes; Keith N. West, Lawrence A. Norris; [M. Gavin Adams](#); [Austin R. Pierce](#); [Pamela L. Monaghan](#).

Statutory Authority: Code of Alabama, 1975, § 22-30E-4.

History: May 16, 2002.

Amended: November 25, 2004; **Amended:** **Proposed: December 20, 2021.**

335-15-4-.06 Certification of Compliance-Letter of Concurrence.

(1) Certification of Compliance. When all requirements of an approved cleanup plan have been completed, the applicant shall submit to the Department a eCertification of eCompliance. A eCertification of eCompliance may also be submitted when an assessment based on an approved ~~Voluntary~~ Property Assessment Plan has been completed and no contamination discovered. The Department shall review all reports and the required eCertification of eCompliance submitted under 335-15-4-.06. The applicant or eligible successor must satisfactorily maintain the engineering controls, remediation systems, ~~or post-closure care,~~ or if non-permanent institutional controls are utilized pursuant to an agreement, the Department may issue the applicant a "Letter of Concurrence" with conditions. The Department may authorize an applicant to conduct a phased response only when, in the Department's evaluation, the schedule is reasonable.

(2) "Letter of Concurrence". Upon concurrence by the Department, the Department shall issue to the applicant a "Letter of Concurrence".

(3) "Letter of Concurrence" with Conditions. For partial response actions, a "Letter of Concurrence" with conditions shall pertain only to the partial response action area and shall include a legal description of that area.

(4) Deed Records. The applicant shall ~~file the copy of the eCertification of eCompliance and the "Letter of Concurrence" with conditions into the site deed record on the Department's behalf and provide subsequent documentation of the filing. The applicant must file the copy of the eCertification of eCompliance and the "Letter of Concurrence" with conditions prior to the sale or transfer of the property, but not later than 60 days after the date of issuance of the letter. The Department may allow the applicant to file a statement in the deed records stating that the eCertification of eCompliance and the "Letter of Concurrence" supersede prior deed certification requirements.~~ comply with the requirements of ADEM Admin. Code 335-5.

(5) Revocation. The "Letter of Concurrence" may be revoked by the Department in the event that contamination posing an unacceptable risk to human health and the environment is discovered on site, or discovery is made that the submitted certification of compliance was based on information that was materially false, inaccurate or misleading.

(a) The applicant shall be notified in writing by certified mail of the proposed revocation.

(b) The applicant shall be given an opportunity to respond within 30 days upon receipt of the letter.

(c) Unacceptable response to the revocation letter will result in the reinstatement of any cleared deed notation and/or deed restriction until such time as the property is deemed to be in compliance.

(6) Sovereign Immunity. Issuance of the "Letter of Concurrence" does not constitute a waiver of sovereign immunity.

(7) Release from Liability. Upon the Department's approval of the submitted eCertification of eCompliance described in 335-15-4-.06, an applicant who is not a responsible person, as defined in 335-15-1-.02, at the qualifying property, shall not be liable to the state or any third party for costs incurred in the investigation or cleanup of, or equitable relief relating to, or damages resultant from, in whole or in part, a preexisting release at the qualifying property, including, but not limited to, any liability to the state for the cleanup of the property under Title 22, Chapters 22, 27, 30, 30A, and 35 of the Code of Alabama 1975, or a new release of a substance, constituent, or material which had been part of a preexisting release at the property, unless such new release results from noncompliance with an approved vVoluntary pProperty aAssessment pPlan or vVoluntary eCleanup pPlan or from the negligent, wanton, willful, or intentional conduct of the applicant.

Authors: Fred A. Barnes; Keith N. West; Lawrence A. Norris; Stephen A. Cobb; Sonja B. Favors; Anna M. Ennis; M. Gavin Adams; Austin R. Pierce; Pamela L. Monaghan.

Statutory Authority: Code of Alabama, 1975, §§ 22-30E-5, 22-30E-9, and 22-30E-10.

History: May 16, 2002, April XX, 2020.

Amended: November 25, 2004 **Amended:** Filed: February 28, 2020; Effective: April 13, 2020; Amended: Proposed: December 20, 2021.

335-15-6-.01 Purpose.

(1) To provide a mechanism that allows for public participation in the Voluntary Cleanup Program in accordance with 335-15-~~4~~.04(4)(c). ~~Cleanup plans for sites enrolled in the Program are placed on public notice allowing the general public the opportunity to comment.~~ The public notice informs the general public concerning matters of actual or perceived possible contamination and the proposed or implemented possible remediation or revitalization of previously contaminated sites.

(2) To compile a Voluntary Cleanup Inventory of existing sites undergoing voluntary cleanups and to provide a mechanism for the addition and removal of properties to the Voluntary Cleanup Inventory, including the procedures for inclusion in the deed records of the applicable probate court.

Authors: Fred A. Barnes; Keith N. West; Lawrence A. Norris; Stephen A. Cobb; Vernon H. Crockett; Sonja B. Favors; Crystal L. Collins; Lynn T. Roper; M. Gavin Adams; Austin R. Pierce; Pamela L. Monaghan.

Statutory Authority: Code of Alabama, 1975, § 22-30E-4.

History: May 16, 2002; **Amended:** Effective: November 25, 2004; **Amended:** Filed: February 28, 2020; Effective: April 13, 2019; **Amended: Proposed: December 20, 2021.**

335-15-6-.02 Public Participation.

(1) Public notification of cleanup. Once a ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan is determined to be complete, the Department will notify the public of the opportunity to submit written comments on the plan through the Department's website and request modifications to the plan no later than 30 days from the date of the notice. ~~provide the applicant and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications to the plan no later than 30 days from the date of the notice.~~ It will also, in response to a legitimate request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan. The Department will give public notice of the hearing at least 30 days before it occurs.

(2) Public notice procedures. Public notice of activities described in 335-15-6-.02(3) shall be given by the following methods:

(a) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under 335-15-6-.02(2)(a) may waive his right to receive notice):

1. The applicant;
2. Persons who request in writing to be placed on a mailing list developed for the program:
 - (i) Including those who request in writing to be on the list;
 - (ii) Soliciting persons for area lists from participants in past voluntary cleanup proceedings in that area; and
 - (iii) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state funded newsletters, environmental bulletins, or state law journals~~the Department's website~~. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of any person who fails to respond to such a request; and

3. Governmental Agencies:
 - (i) To any unit of local government having jurisdiction over the area where the voluntary cleanup facility is located; and
 - (ii) To each State agency having any authority under State law with respect to the construction or operation of such facility.

(b) Publication of a notice ~~in a daily or weekly major local newspaper of general circulation. The newspaper advertisement should be located at a~~

~~spot in the paper calculated to give effective notice to the general public, and should be large enough to be seen easily by the reader. shall be -posted on the Department's website.~~

(3) Content. -All public notices issued under 335-15-6 shall contain the following information:

(a) Name and address of the office processing the voluntary cleanup action for which the notice is being given;

(b) Name and address of the applicant and, if different, of the site or activity regulated by the voluntary cleanup action;

(c) A brief description of the proposed cleanup action to be to be conducted at the site or activity described in the ~~v~~Voluntary ~~e~~Cleanup ~~p~~Application;

(d) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft application; and

(e) A brief description of the comment procedures, including a statement of procedures to request a hearing.

(4) Departmental Review. After considering all comments submitted during the public comment period and public hearing (if held), the Department will approve or disapprove the ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan within 30 days of the close of the comment period. In the event that the ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan is not approved, the Department shall provide the applicant with a statement of reasons for the denial. The applicant must modify the ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan or submit a new ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan for approval within 30 days after receiving such written statement. The Department will approve or modify this ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan in writing within 60 days of receipt. If the Director modifies the ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan, this modified ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan becomes the approved ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan. A copy of the modified ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan with a detailed statement of reasons for the modifications must be mailed to the applicant.

Authors: Fred A. Barnes; Keith N. West; Lawrence A. Norris; Stephen A. Cobb; Pamela L. Monaghan.

Statutory Authority: Code of Alabama, -1975, § 22-30E-4.

History: May 16, 2002.

Amended: November 25, 2004; Amended: Proposed: December 20, 2021.

335-15-6-.03 Voluntary Cleanup Properties Inventory.

(1) Voluntary Cleanup Properties Inventory. Pursuant to Code of Alabama 1975, §§ 22-30E-4(b)(2) and 22-30E-4(b)(3), the Department shall compile and update as necessary an inventory of all qualifying properties for which a ~~v~~Voluntary ~~p~~Properties ~~a~~Assessment ~~p~~Plan and/or Report or a Voluntary eCleanup pPlan and/or Report has been approved by the Department. No later than July 1st of each year, the Department shall send a copy of the inventory with the properties listed by county to the clerk of each probate court of the state. The inventory shall be called the Voluntary Cleanup Properties Inventory. The inventory shall include all the following information:

- (a) The name of the property or another description identifying the property.
- (b) The location of the property.
- (c) The name of the owner of the property at the time of the property's inclusion in the inventory.
- (d) A general description of the ~~v~~Voluntary ~~p~~Property ~~a~~Assessment Plan and/or Report or ~~v~~Voluntary ~~e~~Cleanup ~~p~~Plan and/or Report.
- (e) A property cleaned up to standards less stringent than those required for unrestricted residential use, requires a description of the applicable values used and any use restrictions which are imposed.

(2) Placement on the Voluntary Cleanup Inventory. Upon the Department's approval of the ~~v~~Voluntary ~~p~~Property ~~a~~Assessment and/or the Voluntary eCleanup pPlan, the property shall be listed on the Voluntary eCleanup pPlan pProperties inventory as provided 335-15-6-.03(1).

(3) Restricted Use.

(a) The property owner of any property listed on the inventory which is designated as having been cleaned up to standards less stringent than those necessary for unrestricted residential use shall include the following notice in any deed, mortgage, deed to secure debt, lease, rental agreement, or other instrument given or caused to be given by the property owner which creates an interest in the property: "This property has been listed on the state's Voluntary Cleanup Properties Inventory and has been cleaned up to standards less stringent than those required for unrestricted residential use due to the presence of substances regulated under state law. Certain uses of this property may require additional cleanup. Contact the property owner or the Alabama Department of Environmental Management for further information concerning this property. This notice is provided in compliance with the Alabama Land Recycling and Economic Redevelopment Act."

(b) If warranted by further active or passive remediation that results in the reduction of contamination to unrestricted residential use levels, this notice may be removed in accordance with 335-15-6-.03(4).

(4) Unrestricted Use. Upon a written determination by the Department that a property has been cleaned up to standards suitable for unrestricted residential use, the notices required by 335-15-6-.03(1) shall be removed from the subject property records.

Authors: Lawrence A. Norris; Stephen A. Cobb; Vernon H. Crockett; Sonja B. Favors; Crystal L. Collins; Lynn T. Roper; [Pamela L. Monaghan](#).

Statutory Authority: Code of Alabama, 1975, §§ 22-30E-4 and 22-30E-11.

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