

**335-15-1-.02 Definitions.** Unless otherwise defined in ADEM Admin. Code R. 335-15-1 through 335-15-6, 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 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 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.

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

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

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

(v) "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.

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

(y) "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.

(z) "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 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.

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

(bb) "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.

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

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

(ee) "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.

(eeff) "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, 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.

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

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

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

(iiij) "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.

(jjkk) "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, hazardous or nonhazardous.]

~~(kkl)~~ "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.

~~(lmm)~~ "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.

~~(mmnn)~~ "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.

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

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

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

~~(qrr)~~ "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.

~~(rss)~~ "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.

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

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

(~~uu~~vv) "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 or the environment.

(~~ww~~ww) "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.

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

(~~yy~~yy) "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.

(~~zz~~zz) "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.

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

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

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

(~~ddd~~ddd) "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.

(~~eee~~eee) "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.

(~~eeeffi~~) "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  $1 \times 10^{-6}$  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.

(~~fffggg~~) "Voluntary cleanup plan" 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.

(~~ggghhh~~) "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.

(~~hhhhii~~) "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:** November 25, 2004; **Amended: Proposed: October 21, 2019.**

**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). As appropriate, the application package may be submitted individually or in conjunction with the voluntary assessment plan, voluntary cleanup or the certification of ~~completion~~compliance.

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### **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 ~~not~~ approve an application ~~until~~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(2) 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.

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

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**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-.023, the applicant shall submit for approval, a complete and comprehensive voluntary property assessment plan for the site,

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

(2) Content. A voluntary property assessment 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 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 voluntary property assessment plan shall be submitted in a format consistent with the Alabama Environmental Investigation and Remediation Guidance document.

(a) A voluntary property assessment 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 voluntary property assessment 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 voluntary property assessment 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 voluntary property assessment plan, the Department shall specify a time within which the applicant

shall implement the approved voluntary property assessment 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 voluntary property assessment 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 voluntary property assessment 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 voluntary property assessment 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 voluntary property assessment 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 voluntary property assessment report.

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

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

(1) Submission. An acceptable voluntary cleanup 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 ~~is~~ 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 voluntary cleanup 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 voluntary cleanup 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. The applicant may amend 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 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 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 voluntary cleanup plan, or request corrections to or disapprove the voluntary cleanup 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; ~~however, requests for items not required by 335-15-4-.04(1) through 335-15-4-.04(3).~~
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 voluntary cleanup plan, the applicant shall begin implementation. The Department's approval of a voluntary cleanup plan shall in no way be construed as a guarantee, promise, or assurance that the Department will concur with the applicant's certification of compliance with the cleanup requirements.

(b) If at any time the applicant or the Department determines that any element of an approved voluntary cleanup 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 voluntary cleanup 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.

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

(b) 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 property assessment and cleanup report. 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) within 60 days of the submission of the certification of compliance.

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

**History:** May 16, 2002.

**Amended:** November 25, 2004; September 19, 2006; **Amended:** **Proposed:** **October 21, 2019.**

### **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 certification of compliance. A certification of compliance 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 certification of compliance 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 ~~conditional~~ "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) Unconditional "Letter of Concurrence". Upon concurrence by the Department, the Department shall issue to the applicant an ~~unconditional~~ "Letter of Concurrence".

(3) Conditional "Letter of Concurrence" with Conditions. For partial response actions, a ~~conditional~~ "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 certification of compliance and the ~~conditional~~ "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 certification of compliance and the ~~conditional~~ "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 certification of compliance and the "Letter of Concurrence" supersede prior deed certification requirements.

(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 certification of compliance 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 voluntary property assessment plan or voluntary cleanup plan or from the negligent, wanton, willful, or intentional conduct of the applicant.

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

**History:** May 16, 2002.

**Amended:** November 25, 2004; **Amended:** Proposed: October 21, 2019.

**335-15-5-.02 Financial Assurance.** The applicant shall demonstrate proof of financial assurance of his or her ability to implement the Voluntary Cleanup Plan, including operations and maintenance activities, in accordance with r. 335-15-5-.02 for any voluntary cleanup plan that requires operation and maintenance (e.g. groundwater monitoring, groundwater remediation, maintenance of cap, operation of treatment system) ~~with the voluntary cleanup plan~~ for the site following the initial cleanup activity (e.g. removal action, risk assessment, etc.) no later than 60 days following approval of the plan. Types of financial assurance include:

(a) Assets of the applicant. A certified financial report demonstrating suitable financial integrity and available resources sufficient to satisfy the projected cleanup cost.

(b) Cleanup trust fund.

1. A cleanup trust fund which conforms to the requirements of 335-15-5-.02(b)2. An applicant must submit an originally signed duplicate of the trust agreement to the Department no later than 30 days following establishment of the trust fund or within 60 days after a change in the current cleanup cost estimate.

2. Payments into the fund shall be made quarterly for short term remedial actions and annually for long term remedial actions. The pay-in-period is equal to one-half of the estimated remedial action period. The first payment must be made at the time the trust fund is established and receipt from the trustee must be submitted by the applicant to the Department no later than 30 days following the payment date. Subsequent payments must be made no later than 30 days after the anniversary date of the first payment. The amount of each payment shall be determined by the following formula:

$$\text{Payment amount} = \frac{\text{CE} - \text{CV}}{\text{Y}}$$

where CE is the remedial action cost estimate at the time of the payment; CV is the current value of the trust fund at the time of the payment; and Y is the number of remaining quarter years for short term cleanup or years for long term remediation in the pay-in-period, at the time of the payment.

3. The applicant may accelerate payments into the trust fund or deposit the full amount of the current remedial action cost estimate at the time the fund is established. However, the value of the fund must be maintained at no less than the value that the fund would have if annual payments were made as specified in 335-15-5-.02(b)2.

4. If during the remedial action period, the value of the trust fund is greater than the total amount of the current remedial action cost estimate, the

applicant may submit a written request to the Department for release of the amount in excess of the current remedial action cost estimate.

5. After the pay-in-period is completed, the Department may approve a release of funds during the remedial action period, if the applicant demonstrates to the Department that the value of the trust fund exceeds the remaining cost of remedial action.

6. The Department will agree to termination of the trust when:

(i) An applicant substitutes alternate financial assurance as specified in 335-15-5-.02(b); or

(ii) The Department releases the applicant from the requirements of 335-15-5-.02(2) in accordance with 335-15-5-.02(6).

(c) Surety bond. An applicant may obtain a surety bond and submit the same to the Department.

(d) Remedial action letter of credit. An applicant may obtain an irrevocable standby letter of credit and submit the same to the Department.

(e) Multiple financial mechanisms. An applicant may establish more than one financial mechanism per site. These mechanisms are limited to those specified in 335-15-5-.02 (a), (b) and (c), respectively, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current remedial action cost estimate. If an applicant uses a trust fund in combination with a surety bond or a letter of credit, the trust fund may be used as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Department may use any or all of the mechanisms to provide for remedial action of the site.

(f) Release of the applicant from the requirements of 335-15-5-.02(b). Within 60 days after receiving certification that remedial action has been completed in accordance with the approved voluntary cleanup plan, the Department will relieve the applicant of the requirement to maintain financial assurance unless the Department has reason to believe that remedial action does not comply with the approved voluntary cleanup plan. The Department shall provide the applicant with the reason(s) for non-release.

**Authors:** Fred A. Barnes; Keith N. West; Lawrence A. Norris; Stephen A. Cobb; [Vernon H. Crockett](#); [Sonja B. Favors](#); [Crystal L. Collins](#).

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

**History:** May 16, 2002.

**Amended:** November 25, 2004; **Amended: Proposed: October 21, 2019.**

**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-.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 possible contamination and the possible revitalization of previous contaminated sites.

(2) To compile a Voluntary Cleanup Inventory ~~List~~ of existing sites undergoing voluntary cleanups and to provide a mechanism for the addition and removal of properties to the Voluntary Cleanup Inventory ~~List~~, 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.

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

**History:** May 16, 2002.

**Amended:** November 25, 2004; **Amended:** Proposed: October 21, 2019.

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

(1) Voluntary Cleanup Properties Inventory-List. 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 voluntary properties assessment plan or cleanup plan has been approved by the Department. No later than July 1<sup>st</sup> 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 voluntary property assessment or voluntary cleanup plan.

(e) A property cleaned up to standards less stringent than those required for unrestricted residential use, require a description of the applicable values used and any use restrictions which are imposed.

(2) Placement on the Voluntary Cleanup Inventory-List. Upon the Department's approval of the voluntary property assessment and/or the voluntary cleanup plan the property shall be listed on the voluntary cleanup plan properties 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](#).

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

**History:** May 16, 2002.

**Amended:** November 25, 2004; **Amended:** **Proposed: October 21, 2019.**

**335-15-7-.02 Applicability.** This Chapter shall constitute the rules of the Alabama Department of Environmental Management governing the disposition of appropriations pursuant to the Federal Comprehensive Environmental Response, Compensation, and Liability Act and the Alabama Land Recycling Authority Act or other monies appropriated to Alabama's Land Recycling Revolving Loan Fund (BCSALRRLF).

**Authors:** Aubrey H. White, Lawrence A. Norris; Vernon H. Crockett; Sonja B. Favors; Anna M. Ennis.

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

**History:** November 25, 2004; **Amended:** **Proposed: October 21, 2019.**

**335-15-7-.03 Definitions.** The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise.

(a) "Act" means the Alabama Land Recycling Authority Act.

(b) "allowable costs" are those costs that are eligible, reasonable, necessary, and allocable to the project; permitted by generally accepted accounting principles; and approved by the Department in the Fund loan agreement.

(c) "Authority" means the corporation organized pursuant to the provisions of the Act as a public corporation, agency and instrumentality of the State and known as the Alabama Land Recycling Finance Authority.

(d) "authorizing resolution" means a resolution or order adopted by the Board of Directors of the Authority authorizing the issuance of agreements and related matters.

(e) "Board of Directors" means the Board of Directors of the Alabama Land Recycling Finance Authority, consisting of the Governor, Lieutenant Governor, Speaker of the House of Representatives, Director of the Alabama Department of Environmental Management, and Director of Finance.

(f) "bonds" means revenue bonds, notes or obligations or other evidence of indebtedness issued by the Authority under the provisions of the Act.

(g) "bond proceeds" means the direct proceeds of the sale of bonds or notes, and the income derived from the investment of such proceeds.

(h) "certified mail" means any means of delivery where proof of receipt is obtained and date of receipt is recorded.

(i) "eligible property" means property which qualifies under 335-15-2-.01 for participation in the voluntary cleanup program, and which is owned and operated by a loan applicant or loan applicants which qualify for the limitations of liability as described in 335-15-4-.02.

(j) "Federal Comprehensive Environmental Response, Compensation, and Liability Act" (CERCLA) means the Act of Congress so designated (42 U.S.C. s/s 9601 et seq. 1980), as amended from time to time.

(k) "Federal grant" means a grant awarded pursuant to CERCLA for the purpose of capitalizing an Alabama Land Recycling Revolving Loan Fund and any amendments or supplements thereto.

(l) "Fund" means the Alabama Land Recycling State Revolving Fund established pursuant to Section 22-30F-4 of the Act.

(m) "Fund loan" means a loan from the Alabama Land Recycling Revolving Loan Fund for the allowable costs of a project.



(n) "Fund loan agreement" is the legal instrument executed between the Authority and the public body for the remediation of contaminated property.

(o) "loan applicant" means any public body which applies for a Fund loan pursuant to the provisions of these rules and regulations.

(p) "local governmental unit" means a city, town, county, district, association, State agency, or other public body (including an inter-municipal agency of two or more) of the foregoing entities created under State law.

(q) "project priority list" means the list developed by the State in conformance with the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1972 (33 U.S.C. 1251 et al.), and any amendatory or supplementary acts thereto.

(r) "project" means projects eligible for assistance from the revolving loan fund as certified to the Authority by the Department, including, without limitation, the following:

1. Assessment and investigation of eligible property pursuant to Code of Alabama 1975, § 22-30E-9(b).

2. Cleanup of eligible property pursuant to Code of Alabama 1975, § 22-30E-9(c).

3. Any expenditure of a type or category determined by the Authority or the Department to be of such nature as will facilitate the timely assessment, cleanup, and subsequent redevelopment and return to productive use of an eligible property.

(s) "public body" includes each county, state agency, incorporated city or town, public corporation, district, cooperative, association, authority or instrumentality thereof created by or pursuant to state law, including also a combination of two or more of the foregoing.

(t) "recipient" means any local governmental unit, which has received a Fund loan pursuant to this Chapter.

(u) "revolving loan fund" [or "Alabama Land Recycling Revolving Loan Fund \(ALFFLF\)"](#)<sup>6</sup> means [a low interest loan program intended to finance remediation of contaminated brownfield sites in Alabama.](#)

(v) "substantial alteration" means any change, which results in an alteration of the project costs, or a change of 90 days or more in the project schedule.

**Authors:** Aubrey H. White, Lawrence A. Norris; [Vernon H. Crockett](#); [Sonja B. Favors](#); [Anna M. Ennis](#).

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

**History:** November 25, 2004; **Amended:** [Proposed: October 21, 2019.](#)

### **335-15-7-.05 Terms of the Loan.**

(1) The Fund may offer loans for up to 100 percent of allowable project costs and may offer a range of options regarding the term, interest rate and level of loan funding. Such loans must be made at or below market interest rates as determined by the Authority.

(2) The total term of the loans shall not exceed 10 years. Repayments shall begin no later than one year after completion of remediation, or three years from the date of loan award, whichever comes first, and shall be repaid in full in no later than 10 years later. Thereafter, loan repayments shall be made in accordance with the repayment schedule indicated in the borrower's Fund loan agreement. Principal and accrued interest with respect to a particular Fund loan may, however, be prepaid in accordance with the provisions of the relevant Fund loan agreement. Interest shall accrue from the date of delivery of the Authority's bonds in a leveraged loan program. In a direct loan program, interest accrues from the date of the execution of the loan agreement.

(3) Loans shall be made only to local governmental units that:

(a) Are on the State project priority list;

(b) Demonstrate tangible financial capacity to assure sufficient revenues to repay the loan;

(c) Provide security for repayment of the loan as required by the Authority;

(d) Agree to maintain records in accordance with governmental accounting standards and to conduct an annual audit of the facility's financial records;

(e) Provide such assurances as reasonably required by the Authority and the Department;

(f) Are not currently, or have been, subject to any penalties resulting from environmental non-compliance at the site subject to the loan;

(g) Are not currently, or have been, a generator or transporter of contamination at the site subject to the loan; and,

(h) Are exempt from liability under CERCLA for the site subject to the loan.

(4) Fund loan payments will be disbursed to recipients at intervals as work progresses and expenses are incurred and approved, but not more often than once a month.

(5) The specific terms and conditions of the Fund loan shall be incorporated in the Fund loan agreement to be executed by the recipient and the Authority.

**Authors:** Aubrey H. White, Lawrence A. Norris, James L. Bryant; [Vernon H. Crockett](#); [Sonja B. Favors](#); [Anna M. Ennis](#).

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

**History:** November 25, 2004.

**Amended:** September 19, 2006; **Amended:** Proposed: October 21, 2019.

### **335-15-7-.07 Pre-application Procedures.**

(1) Public bodies are urged to be familiar with the requirements of this Chapter and to contact the Department early in the planning process so projects are in a position to proceed.

(2) Each pre-application for a Fund loan shall be submitted [to](#) the Department, typically on a quarterly basis. The pre-application shall include full and complete documentation that a loan applicant is required to furnish.

(3) The Department may require a pre-application conference with potential loan applicants prior to submission of a formal application for a Fund loan.

**Authors:** Aubrey H. White, Lawrence A. Norris; [Vernon H. Crockett](#); [Sonja B. Favors](#); [Anna M. Ennis](#).

**Statutory Authority:** [Code of Alabama](#) 1975, §§ 22-30F-2 and 22-30F-4.

**History:** November 25, 2004; **Amended:** [Proposed: October 21, 2019](#).

**335-15-7-.08 Application Procedures.**

(1) Each application for a Fund loan shall be submitted by the established deadline. The application shall include complete documentation required for processing.

(2) The following shall be submitted when applying for a Fund loan:

(a) An application form for a Fund loan. Each application shall constitute a commitment by the loan applicant to comply with the requirements of this Chapter and, upon execution of the agreement by the Authority and the loan applicant, acceptance of the terms and conditions of the Fund loan agreement;

(b) A resolution passed by the local governmental unit authorizing the filing of an application for a Fund loan and specifying the individual authorized to sign the Fund loan application. If two or more local governmental units are involved, a resolution is required from each, indicating the lead loan applicant and the authorized representative;

(c) Statement of assurances in conformance with Rule 335-15-7-.14;

(d) Department approval with assessment and cleanup plans and reports, if applicable;

(e) Project cost breakdown;

(f) Projected cash flow schedule;

(g) Project remediation schedule;

(h) Certificate (legal opinion) from counsel and the authorized representative as to title or mechanism to obtain title necessary for project sites and easements;

(i) A certification that required local, State and federal permits and approvals, if applicable, were received;

(j) A statement from the loan applicant indicating that it has not violated any Federal, State or local law pertaining to fraud, bribery, graft, kickback, collusion or conflicts of interest relating to, or in connection with, the planning and implementation of the project;

(k) A statement from the loan applicant indicating if the services of a person, whose name appears on the Federal list of debarments, suspensions and voluntary exclusions, were used -for planning or design of the project;

(l) Executed inter-municipal agreements, if required;

(m) A plan for how the loan applicant plans to repay the Fund loan and pay any other expenses necessary to fully complete and implement the project,

the steps it has taken to implement the plan, and steps it plans to take before receiving the Fund loan that shall guarantee that at the time of the signing of the Fund loan agreement it shall be irrevocably committed to repay the Fund loan and pay any other expenses necessary to fully complete, implement, operate and maintain the project. The description shall include: pro forma projections of the loan applicant's financial operations during the remediation period of the project and five years thereafter; a summary of the sources and uses of all funds anticipated to be used for the Fund loan project; and a statement of the assumptions used in creating such projections. Loan applicants shall secure all Fund loans in a manner acceptable to the Authority, pledging to provide funds to repay the debt, even if the Fund loan is terminated pursuant to Rule 335-15-7-.34;

(n) A completed voluntary property assessment or voluntary cleanup plan approved by the Department under 335-15-4-.03 and .04;

(o) Information regarding the loan applicant's environmental compliance history;

(p) A viable redevelopment plan for the project site; and,

(q) Such other information as the Department may require.

(3) Loan applicants shall obtain all necessary Federal, State and local permits and approvals prior to the award of a loan. Excluded from prior acquisition are permits and approvals that are impractical to obtain prior to the loan award (e.g., road opening permit, blasting permit, etc.).

(4) Submissions not substantially complying with this Chapter shall not be processed, and shall be returned.

**Authors:** Aubrey H. White, Lawrence A. Norris; [Vernon H. Crockett](#); [Sonja B. Favors](#); [Anna M. Ennis](#).

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

**History:** November 25, 2004; **Amended:** [Proposed: October 21, 2019](#).

**335-15-7-.15 Administration and Performance of Loan.** The recipient bears primary responsibility for the administration and success of the project, including any sub-agreements made by the recipient for accomplishing the Fund loan objectives. Fund loan monies must be used in conformance with these rules and the Fund loan agreement shall achieve the Fund loan objectives and ensure that the purposes set forth in the Act and the CERCLA are fully executed.

**Authors:** Aubrey H. White, Lawrence A. Norris; [Vernon H. Crockett](#); [Sonja B. Favors](#); [Anna M. Ennis](#).

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

**History:** November 25, 2004; **Amended:** **Proposed: October 21, 2019.**

**335-15-7-.25 Ineligible Fund Uses.**

(1) Loan funds shall not be used for the following activities:

(a) ~~Cleanup of a naturally occurring substance; cleanup of products that are part of the structure of and result in exposure within residential buildings or business or community structures; or e~~Cleanup of public or private drinking water supplies that have deteriorated through ordinary use.

(b) Monitoring and data collection necessary to apply for, or comply with, environmental permits under State or federal laws, unless such a permit is required as a component of the cleanup action;

(c) Development activities that are not removal actions, such as construction of a new facility or marketing of property; or,

(d) Job training activities.

(2) Loan funds shall not be used at any of the following sites:

(a) Listed, or proposed for listing, on the National Priorities List;

(b) Where a federal or State agency is planning or conducting a response or enforcement action; or

(c) At which a removal action must be taken within six months.

**Authors:** Aubrey H. White, Lawrence A. Norris; Vernon H. Crockett; Sonja B. Favors; Anna M. Ennis.

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

**History:** November 25, 2004; **Amended:** Proposed: October 21, 2019.



**335-15-7-.27 Pre-award Costs.**

(1) The Department shall not award loan assistance for costs incurred prior to the award of the Fund loan for the project.

(2) If the Department approves preliminary cleanup activities prior to loan closing, such approval is not an actual or implied commitment of Fund loan monies and the public body proceeds at its own financial risk. The public body shall receive cost reimbursement of approved activities only upon execution of a binding loan agreement.

**Authors:** Aubrey H. White, Lawrence A. Norris; Vernon H. Crockett; Sonja B. Favors; Anna M. Ennis.

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

**History:** November 25, 2004; **Amended:** Proposed: October 21, 2019.

**335-15-7-.32 Notice of Noncompliance.** Where the Department determines that the recipient is in noncompliance with any condition or requirement of these rules or requirements, it shall notify the recipient of the noncompliance. The Department may require the recipient to take and complete corrective action within 10 working days of receipt of notice. If the recipient fails to take corrective action or if the action taken is inadequate, then the Department may withhold disbursement. The Department may, however, withhold disbursement pursuant to Rule 335-15-7.33 without issuing a notice pursuant to this section.

**Authors:** Aubrey H. White, Lawrence A. Norris; [Vernon H. Crockett](#); [Sonja B. Favors](#); [Anna M. Ennis](#).

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

**History:** November 25, 2004; **Amended:** Proposed: October 21, 2019.