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335-6-15-.01 **Purpose.** This chapter is promulgated to establish construction, installation, performance, and operating standards for underground storage tanks and to implement the purposes and objectives of the Alabama Underground Storage Tank and Wellhead Protection Act of 1988 with respect to the regulation of underground storage tanks.

Author: Sonja Massey.
Statutory Authority: Code of Alabama 1975, §§ 22-36-1 et seq.
History: April 5, 1989.

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

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

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

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

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

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

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

(g) "Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems. Such persons must also be certified, and then recertified every 3 years, as successfully completing in-class and field training from a corrosion expert. Certification may no longer be recognized by the Department and/or the certifying organization if a certified individual is not recertified within 90 days or another time period approved by the Department after expiration of their certification, there is evidence of fraud, or the tester is determined by the Department to not be capable of properly performing cathodic protection testing. At a minimum, certification training shall encompass all of the following and recertification training shall include the training outlined in items 3. Through 5., or be in accordance with NACE International certification and recertification requirements:

1. Basics of corrosion which include the following discussions:
   (i) What corrosion is;
   (ii) Significance and costs of corrosion;
   (iii) Conditions for corrosion to occur;
   (iv) Electrochemical aspects of corrosion;
   (v) Environmental effects on UST systems such as oxygen, temperature, corrosivity of the environment, concentration of corrosive element, and galvanic coupling;
   (vi) Types of corrosion;
   (vii) Galvanic series and Electromotive Force series; and
   (viii) Corrosion properties of different metals and nonmetals.

2. Underground corrosion discussion which includes the following:
(i) Chemical and physical properties of soils;
(ii) Factors affecting underground corrosion such as:
   (I) Soil particle size and composition; and
   (II) Electrolyte moisture content, resistivity, and acidity/alkalinity;
(iii) Factors in underground corrosion of ferrous metals such as burial depth, area effects, and time buried; and
(iv) Behavior of coatings in soils.

3. Corrosion prevention discussion which includes the following:
   (i) Impressed current cathodic protection system mechanism, economics, continuity and structure-to-soil testing, anode selection, life of anode, anode environment, design and installation of anodes;
   (ii) Sacrificial anode (galvanic) cathodic protection system mechanism, economics, continuity and structure-to-soil testing, anode selection, life of anode, anode environment, design and installation of anodes;
   (iii) Sources of power for cathodic protection;
   (iv) When to use an impressed current cathodic protection system versus a sacrificial anode cathodic protection system;
   (v) Misconceptions about cathodic protection;
   (vi) Purpose of cathodic protection monitoring and testing, criterion used for monitoring steel, and criterion for monitoring other metals;
   (vii) Reference cell purpose, practical test locations, test stations, and maintenance;
   (viii) Stray current sources, detection, testing, and prevention;
   (ix) Use of coatings in underground applications to prevent corrosion; and
   (x) UST internal corrosion problems and prevention.

4. Discussion of regulatory requirements for corrosion protection as follows:
   (i) Federal and state corrosion protection requirements;
   (ii) Qualifications required to perform corrosion protection work as a corrosion expert and cathodic protection tester;
(iii) Integrity assessment prior to addition of cathodic protection such as internal inspection and acceptable alternatives;

(iv) Corrosion protection upgrading options; and

(v) Monitoring and recordkeeping requirements.

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

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

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

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

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

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

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

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

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

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

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

(q) "De minimis concentration" means that amount of a substance mixed with another substance that is so little, small, minuscule, or tiny that it does not alter the properties of the substance with which it is mixed.

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

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

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

(u) "Dispenser" is a device designed to dispense motor fuels and kerosene.

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

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

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

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

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

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

(y) "Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

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

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

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

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

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

(ee) "Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

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

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

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

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

(jj) "Motor fuel" means petroleum, petroleum-based substance or petroleum blend with more than a de minimis concentration of petroleum that is typically used for combustion in the operation of a motor or engine such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, any grade of gasohol, biodiesel, etc.

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

(ll) "New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after April 5, 1989. [See also "Existing tank system."]

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

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

(oo) "Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under rules 335-6-15-.33 through 335-6-15-.37.

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

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

1. Are trained to operate and maintain underground storage tank systems and keep records in accordance with the requirements in this chapter;
2. Operate and maintain underground storage tank systems in accordance with the requirements in this chapter;

3. Maintain records in accordance with the requirements of this chapter;

4. Respond to emergencies caused by releases or spills from underground storage tank systems in accordance with the requirements of this chapter; and

5. Make financial responsibility documents available to the Department as required by rules 335-6-15-.13 and 335-6-15-.43.

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

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

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

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

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

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

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

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

(tt) "Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.
(uu) "Owner" means: in the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and in the case of any UST system in use before November 8, 1984, but no longer in use on that date, the present owner of the underground storage tank and any person who owned such underground storage tank immediately before the discontinuation of its use.

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

(ww) "Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis concentrations of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

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

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

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

(aaa) "Regulated substance" means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under division 14 of the ADEM Administrative Code); and petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). The term "regulated substance" includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels,
distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

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

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

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

(eee) "Repair" means to restore a defective or damaged component of a UST system that has caused or could cause a release of product from the UST system that is not “routine maintenance” as defined in (ggg) of this rule.

(fff) "Residential tank" is a tank located on property used primarily for dwelling purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. Tank used for storing heating oil for consumptive use on the premises where stored;
3. Septic tank;
4. Pipeline facility (including gathering lines) regulated under:
   (i) The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.), or
   (iii) State laws comparable to the provisions of law in subparagraph (i) or (ii) above;
5. Surface impoundment, pit, pond, or lagoon;
6. Storm-water or wastewater collection system;
7. Flow-through process tank;
8. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

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

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

11. Piping connected to any of the above exemptions.

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

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

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

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

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

(www) Individual Excess Lifetime Cancer Risk (IELCR) - The increase over background in an individual’s probability of getting cancer over a lifetime due to exposure to a chemical.

(xxx) Hazard Quotient - a ratio of the level of exposure of a chemical over a specified time period to a reference dose for that chemical of concern derived for a similar exposure period.

(yyy) Reference Dose - An estimate of a daily exposure to the general human population that is likely to be without an appreciable risk of deleterious effects during a lifetime of exposure.

(zzz) Health Advisory Level (HAL)-A level established by EPA which provides the level of a contaminant in drinking water at which adverse non-carcinogenic health effects would not be anticipated with a margin of safety.
(aaaa) Maximum Contaminant Level (MCL) - A level established by EPA which is the maximum permissible level of a contaminant in drinking water, which is delivered to any user of a public water system.

Author: Sonja Massey.
History April 5, 1989.
Amended: October 2, 2003; August 6, 2007; April 25, 2008; November 24, 2009; January 16, 2012; April 1, 2014.

335-6-15-.03 Applicability.

(1) The requirements of this chapter apply to all owners and operators of an UST system as defined in rule 335-6-15-.02 except as otherwise provided for in paragraphs (2), (3) and (4) of this rule. Any UST system listed in paragraph (3) of this rule must meet the requirements of rule 335-6-15-.04.

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

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

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

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

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

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

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

(3) Deferrals. The following UST systems are only subject to rules 335-6-15-.04 and 335-6-15-.20 through 335-6-15-.31

(a) Wastewater treatment tank systems;

(b) Any UST system containing radioactive materials that are regulated under the Atomic Energy Act of 1954 (42 USC 2011 and following);
(c) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A;

(d) Airport hydrant fuel distribution systems; and

(e) UST systems with field constructed tanks.

(4) Deferrals. Any existing UST system that stores fuel solely for use by emergency power generators is not subject to rules 335-6-15-.14 through 335-6-15-.19. Beginning August 6, 2007 and thereafter, when a UST system is installed that stores fuel solely for use by emergency power generators, the UST system is subject to all rules in this chapter. Beginning August 6, 2007 and thereafter, when piping is installed on an existing UST system that stores fuel solely for use by emergency power generators, only the piping is subject to all the rules in this chapter.

Author: Sonja Massey.
History: April 5, 1989.
Amended: October 2, 2003; August 6, 2007.

335-6-15-.04 Interim Prohibition for Deferred UST Systems. No person may install an UST system listed in rule 335-6-15-.02(ttt) for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction):

(a) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(b) Is protected by one of the following methods: cathodically protected against corrosion; constructed of noncorrodible material; steel clad with a noncorrodible material; or designed in a manner to prevent the release or threatened release of any stored substance; and

(c) Is constructed or lined with material that is compatible with the stored substance.

Author: Sonja Massey.
History: April 5, 1989.

335-6-15-.05 Notification Requirements.

(1) Any owner or operator of an underground storage tank system for which a notification has not been provided to the Department as of April 5, 1989, must within 30 days of that date, submit, in a form approved by the
Department, a notice of the existence of such tank system to the ADEM. Notification shall include the information identified in paragraph (2) below.

(2) Any owner who brings an underground storage tank system into use after April 5, 1989, must within 30 days of bringing such tank into use, submit, in a form approved by the Department, a notice of the existence of such tank system to the ADEM. Notification shall include the following information:

(a) Owner and operator name, address and telephone number.
(b) Type of owner (e.g., sole proprietor, partnership, corporation).
(c) Location of tank.
   1. Description of facility location;
   2. Mailing address of facility at which tank is located (where applicable);
(d) Telephone number at the underground storage tank facility where the tank is located (where applicable).
(e) Operational status of tank.
(f) Estimated age of tank.
(g) Estimated total capacity in gallons.
(h) Material of construction of tank and piping.
(i) Type of tank internal protection.
(j) Type of tank external protection.
(k) Type of release detection method or methods.
(l) Substance currently stored.
(m) Type of product dispensing system; pressure or suction.
(n) Location of check valve and slope of piping for suction systems.
(o) Regulated substance deliverer name, address and telephone number.
(p) Other such information determined to be necessary by the Department.

(3) An owner of an UST system which has had a modification which has changed any of the information reported originally under paragraph (1) or
(2) of this rule must submit an amended notification to the department within 30 days of the completion of that modification.

(4) Owners required to submit notices under paragraphs (1) and (2) of this rule must provide notices to the Department for each tank they own. Owners may provide notice for several tanks using one notification form, but owners who own tanks located at more than one place of operation must file a separate notification form for each separate place of operation.

(5) A notification of installation or modification, containing information determined to be necessary by the Department, shall be submitted 30 days prior to the anticipated date of installation or modification for each tank or tank system in a form which is acceptable to the Department.

(6) All owners and operators of new UST systems must certify in the notification, that they are in compliance with the following requirements:

(a) Installation of tanks and piping under rule 335-6-15-.06(e) and 335-6-15-.47;

(b) Cathodic protection of steel tanks and piping under rule 335-6-15-.06(a) and (b);

(c) Financial responsibility under rules 335-6-15-.44 and 335-6-15-.45;

(d) Release detection under rules 335-6-15-.15 and 335-6-15-.16.

(7) All owners and operators of new UST systems must ensure that the installer certifies in the notification form that the installation was installed in accordance with the requirements in rule 335-6-15-.06(e).

(8) Any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of such tank of the owner's notification obligations under paragraph (2) of this rule.

(9) Any person who sells an UST system that is already in service must: notify the Department of such sale, provide proof of transfer of ownership of the UST system and provide the name and address of the new UST system owner to the Department.

(10) A person receiving ownership of an UST system under the conditions of paragraph (9) of this rule must comply with the notification requirements of paragraphs (1) and (3) of this rule.
335-6-15-.06  Performance Standard for New USTs, Piping, UST Systems, and/or Dispensers. In order to prevent releases due to structural failure, corrosion, leakage from submersible pumps and dispensers or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new USTs, piping, UST systems and/or dispensers must install this equipment in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and meet the following requirements:

(a) USTs. USTs installed on August 6, 2007 and thereafter must be manufactured so that any portion of the tank that is underground and routinely contains product has an inner and outer wall, and interstitial space. The USTs must be designed to allow monitoring of the integrity of both the inner and outer wall, contain a leak into the interstitial space until it is detected and removed, and prevent a release to the environment at any time during its operational life. Each UST must be properly designed and constructed, and any portion in contact with the ground that routinely contains product, as well as the metal outer wall of double wall tank which is in contact with the ground, must be protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

1. The UST is constructed of fiberglass-reinforced plastic; or

2. The UST is constructed of steel and cathodically protected in the following manner:
   (i) The UST is coated with a suitable dielectric material;
   (ii) Field-installed cathodic protection systems are designed by a corrosion expert;
   (iii) Cathodic protection systems are designed to allow determination of current operating status according to the requirements of rule 335-6-15-.10; and
   (iv) Cathodic protection systems are operated and maintained in accordance with rule 335-6-15-.10.

3. The UST is constructed of a steel-fiberglass-reinforced-plastic composite; or
4. The UST construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements of subparagraphs (a)1. through 3. of this rule.

(b) Piping. All piping, other than suction piping that meets the requirements specified in rule 335-6-15-.15(b)(i), (ii), (iii), (iv), and (v), installed under the ground on August 6, 2007 and thereafter must be manufactured so that piping has an inner and outer wall and interstitial space. Such piping must be designed to allow monitoring of the integrity of both the inner and outer wall, contain a leak into the interstitial space until it is detected and removed, and prevent a release to the environment at any time during its operational life. All metal piping that routinely contains regulated substances and is in contact with the ground, as well as the metal outer wall of double wall piping which is in contact with the ground, must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as specified below:

1. The piping is nonmetallic and is constructed of either fiberglass-reinforced plastic (rigid) or thermoplastic (flexible). Nonmetallic piping installed on January 10, 2006, and thereafter, must meet the requirements of the most current edition of Underwriters Laboratories Inc. "Standard for Safety for Nonmetallic Underground Piping for Flammable Liquids", "UL 971". Performance claims must be demonstrated by an evaluation properly conducted in accordance with "UL 971"; or

2. The piping is constructed of steel and cathodically protected in the following manner:

(i) The piping is coated with a suitable dielectric material;

(ii) Field-installed cathodic protection systems are designed by a corrosion expert;

(iii) Cathodic protection systems are designed to allow determination of current operating status according to the requirements of rule 335-6-15-.10; and

(iv) Cathodic protection systems are operated and maintained in accordance with rule 335-6-15-.10.

3. The piping construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in subparagraphs (b)1. and 2. of this rule.
(c) **Spill and Overfill Prevention Equipment.** Except as provided for in sub-paragraph (c)3. below, to prevent spilling and overfilling associated with product transfer to the UST, owners and operators must use the following spill and overfill prevention equipment or preventive measures in 1. and 2. below:

1. Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin) operated and maintained in accordance with rule 335-6-15-.09; and

2. Overfill prevention equipment that will:

   (i) Automatically shut off flow into the tank when the tank is no more than 95 percent full; or

   (ii) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high-level alarm.

3. Owner and operators are not required to use the spill and overfill prevention equipment specified in subparagraphs (c)1. and 2. above if alternative equipment is used that is determined by the Department to be no less protective of human health and the environment than the equipment specified in subparagraph (c)1. or 2. of this rule; or the UST system is filled by transfers of no more than 25 gallons at one time.

(d) **Submersible Pump and Under Dispenser Containment.** USTs installed with submersible pumps on August 6, 2007 and thereafter, must have submersible pump containment sumps. New dispenser systems installed on August 6, 2007 and thereafter, must have under dispenser containment sumps as follows.

1. The sumps must be operated and maintained in accordance with rule 335-6-15-.09(2), (3), and (4). Containment sumps must be designed, constructed, installed, and maintained to:

   (i) Be liquid-tight on all sides, bottom and all penetrations to contain leakage and prevent release of regulated substances from equipment related to dispensers and submersible pumps until the regulated substance is detected and removed; and

   (ii) Be compatible with the substance conveyed by the piping to prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

   (iii) Be able to be visually inspected for evidence of a leakage into the sumps.

(e) **Installation.** All tanks and piping must be properly installed:

1. Under the supervisory control of an individual or individuals certified in accordance with the requirements in rule 335-6-15-.47;
2. In accordance with codes of practice developed by nationally recognized associations or independent testing laboratories;

3. In accordance with the manufacturer's instructions; and

4. In accordance with plans and specifications required under rule 335-6-15-.08 and reviewed by the Department to include any modifications required to be made by the Department.

(f) The Department reserves the right to inspect an UST system within 30 days of submission of plans or notification of installation prior to the UST system being fully backfilled and placed into operation. The Department may authorize a representative to make this inspection.

Author: Sonja Massey.
History: April 5, 1989.
Amended: January 10, 2006; August 6, 2007; April 25, 2008; January 16, 2012; April 1, 2014.

335-6-15-.07 Upgrading of Existing UST Systems.

(1) Alternatives Allowed. Not later than December 22, 1998, all existing UST systems must comply with one of the following requirements:

(a) New UST system performance standards under rule 335-6-15-.06;

(b) The upgrading requirements in paragraphs (2) through (4) below; or

(c) Closure requirements under rules 335-6-15-.33 through 335-6-15-.39, including applicable requirements for corrective action under rules 335-6-15-.25 through 335-6-15-.31.

(2) Tank Upgrading Requirements. Steel tanks must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:

(a) Interior Lining. A tank may be upgraded by internal lining if:

1. The lining is installed in accordance with the requirements of rule 335-6-15-.12, and

2. Within 10 years after lining, and every 5 years thereafter, except as indicated in subparagraph 3. below, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.
3. Tanks that had internal lining installed to comply with the December 22, 1998 upgrade deadline must meet the requirements of paragraph (c) below or be permanently closed in accordance with rules 335-6-15-.34 and 335-6-15-.35 within one year of the first required interior lining inspection after January 16, 2012.

(b) Cathodic Protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of rule 335-6-15-.06(a)2.(ii), (iii), and (iv) and the integrity of the tank is ensured using one of the following methods:

1. The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system; or

2. The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with rule 335-6-15-.17(d) through (h); or

3. The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two (2) tightness tests that meet the requirements of rule 335-6-15-.17(c). The first tightness test must be conducted prior to installing the cathodic protection system. The second tightness test must be conducted between three (3) and six (6) months following the first operation of the cathodic protection system; or

4. The tank is assessed for corrosion holes by a method that is determined by the Department to prevent releases in a manner that is no less protective of human health and the environment than the requirements of subparagraphs (2)(b)1. through 3. of this rule.

(c) Internal Lining Combined With Cathodic Protection. A tank may be upgraded by both internal lining and cathodic protection if:

1. The lining is installed in accordance with the requirements of rule 335-6-15-.12; and

2. The cathodic protection system meets the requirements of rule 335-6-15-.06(a)2.(ii), (iii), and (iv).

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

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

Author: Sonja Massey.
History: April 5, 1989.

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

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

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

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

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

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

(2) Preparation of Plans, Specifications, and Technical Data. Plans, specifications, and technical data submitted to the Department for review shall bear the seal or number of a professional engineer, in accordance with Alabama law concerning engineering practices, who is competent to perform work in this field of engineering.

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

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

(b) Tank excavation dimensions and location.

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

(d) Type and size of backfill material.
(e) Depth of backfill to be placed under tank.

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

(g) Supports and anchorage design if applicable.

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

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

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

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

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

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

(j) Wiring and conduit associated with monitoring systems.

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

1. Type of cathodic protection, galvanic or impressed current.

2. Test or monitoring station for cathodic protection system.

3. Location and weight of sacrificial anodes.

4. The corrosion expert responsible for the design of a field installed cathodic protection system.

(l) Spill and overfill containment devices.

(m) For groundwater monitoring well systems, the hydraulic conductivity of the soils in which the monitoring wells will be placed.

(n) Type of secondary containment, where applicable.
Whether or not the UST system will be within 300 feet of a private domestic water supply or 1000 feet of a public water supply well.

Any other information that may be required by the Department.

Existing Systems. When plans and specifications are submitted for existing systems, all available information should be submitted regarding the above items.

Modifications or Alterations. Any proposed modification or alteration of plans, specifications, or technical data previously submitted to and reviewed by the Department which could affect the UST system's compliance with this chapter must also be forwarded to the Department for review.

Author: Sonja Massey.
History: April 5, 1989.
Amended: August 6, 2007.

335-6-15-.09 Operation and Maintenance of Spill and Overfill Control, and Containment Systems.

Owners and operators must comply with the following requirements to ensure that releases due to spilling or overfilling do not occur:

The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

Spill catchment basins shall be checked for leakage at least once every 3 years, or upon repair or replacement in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, unless a UST system is temporarily closed in accordance with rule 335-6-15-.33.

If a spill catchment basin is used, ensure that it is emptied before the transfer of regulated substance to the tank so that all the catchment basin volume is available to contain a spill. If a breach in the spill catchment basin is visible or if a spill catchment basin leak test fails, it must be repaired or replaced within a time period acceptable to the Department.

When a regulated substance is being released or is suspected to have been released from the catchment basin to the surrounding surface or subsurface, notify the Department of a suspected release in accordance with rule 335-6-15-.20.
(2) Beginning on August 6, 2007 and thereafter, owners or operators of UST systems with under dispenser and/or submersible pump containment sumps which are not used to meet leak detection requirements and beginning on (insert the effective date of this rule) and thereafter, owners and operators of UST systems with any other type of containment sumps which are not used to meet leak detection requirements, must comply with the following requirements:

(a) Inspect containment sumps annually and keep a log of the results of the annual inspection, unless a UST system is temporarily closed in accordance with rule 335-6-15-.33.

(b) When a regulated substance is discovered in containment sumps:

1. Remove the regulated substance within 24 hours; any regulated substance which is removed must be disposed of in accordance with all state and federal requirements;

2. Repair any necessary equipment to prevent further leakage of regulated substance into the containment sumps.

(c) When a regulated substance is being released or is suspected to have been released from containment sumps to the surrounding surface or subsurface:

1. Shut off the submersible pump;

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

(3) Beginning on August 6, 2007 and thereafter, owners or operators of UST systems with under dispenser and/or submersible pump containment sumps which are used to meet leak detection requirements and beginning on (insert the effective date of this rule) and thereafter, owners and operators of UST systems with any other type of containment sumps which are used to meet leak detection requirements, must comply with the following requirements:

(a) Inspect containment sumps annually and keep a log of the results of the annual inspection, unless a UST system is temporarily closed in accordance with rule 335-6-15-.33.

(b) Containment sumps must remain free of water, regulated substance and debris.

(c) When a regulated substance is discovered in containment sumps:

1. Remove the regulated substance within 24 hours; any regulated substance which is removed must be disposed of in accordance with all state and federal requirements;
2. Repair any necessary equipment to prevent further leakage of regulated substance into containment sumps.

(d) When a regulated substance is being released or is suspected to have been released from containment sumps to the surrounding surface or subsurface:

1. Shut off the submersible pump;

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

(e) The operation of any containment sump sensors must be checked annually to ensure that they are working properly.

(f) Breaches in containment sumps which may result in a release of a regulated substance must be repaired immediately.

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

Author: Sonja Massey.
History: April 5, 1989.
Amended: August 6, 2007; January 16, 2012; April 1, 2014.

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

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

1. Internally inspected and found to be structurally sound in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory, or

2. Permanently closed within 90 days from the end of this 12-month period in accordance with rules 335-6-15-.34 and 335-6-15-.35.
All UST systems equipped with cathodic protection systems must be inspected and tested for proper operation by a qualified cathodic protection tester who maintains current certification in accordance with the requirements in rule 335-6-15-.02(g), in accordance with the following requirements:

1. **Frequency.** All cathodic protection systems must be tested within 1 month of installation and at least every 3 years thereafter; and

2. **Inspection and Testing Criteria.** The criteria that are used to determine that cathodic protection is adequate as required by subparagraphs (a) and (b) of this rule must be in accordance with the code of practice established by the NACE International.

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

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

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

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

**Author:** Sonja Massey.
**Statutory Authority:** Code of Alabama 1975, § 22-36-3.
**History:** April 5, 1989; November 24, 2009; January 16, 2012.

335-6-15-.11 **Compatibility.** Owners and operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST system. Compatibility shall be in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory when such codes of practice are available.

**Author:** Sonja Massey.
**Statutory Authority:** Code of Alabama 1975, § 22-36-3.
**History:** April 5, 1989; April 25, 2008.

335-6-15-.12 **Repairs Allowed.** Owners and operators of UST systems must ensure the repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:
(a) Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory and in accordance with the requirements in rule 335-6-15-.47.

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

(c) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced with piping in accordance with rule 335-6-15-.06(b). Repairs to nonmetallic fiberglass-reinforced plastic (rigid) or nonmetallic thermoplastic (flexible) piping and fittings must be made in accordance with the manufacturer's specifications. Beginning on January 10, 2006, and thereafter, materials used to repair or replace nonmetallic piping must conform to the most current edition of Underwriters Laboratories Inc. "Standard for Safety for Nonmetallic Underground Piping for Flammable Liquids", "UL 971". Performance claims must be demonstrated by an evaluation properly conducted in accordance with "UL 971".

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

(e) Repaired tanks and piping must be tightness tested in accordance with rule 335-6-15-.17(c) and rule 335-6-15-.18(b) within 30 days following the date of the completion of the repair except as provided in paragraphs 1. through 3., below:

1. The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory, and certification of this inspection provided to the Department by the owner or operator and the party performing the internal inspection; or

2. The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in rule 335-6-15-.17(d) through (h); or

3. Another test method is used that is determined by the Department to be no less protective of human health and the environment than those listed above.

(f) Within 1 month following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with rule 335-6-15-.10(b) and (c) to ensure that it is operating properly.
UST system owners and operators must maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this rule.

Author: Sonja Massey.
History: April 5, 1989.
Amended: January 10, 2006; August 6, 2007; January 16, 2012.

335-6-15-.13 Reporting and Recordkeeping. Owners and operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the Department as well as requests for document submission, submission of engineering or technical data, operator training, and testing and monitoring performed by the owner or operator at the request of the Department.

(a) Reporting. Owners and operators must submit the following information to the ADEM:

1. Notification for all UST systems in accordance with rule 335-6-15-.05;

2. Reports of all releases including suspected releases (rule 335-6-15-.20), spills and overfills (rule 335-6-15-.23(2)), and confirmed releases (rule 335-6-15-.24(2));

3. Corrective actions planned or taken including initial abatement measures (rule 335-6-15-.25(2)), conducting a preliminary investigation (rule 335-6-15-.26(5)), free product removal (rule 335-6-15-.27(d)), conducting a secondary investigation (rule 335-6-15-.28(6)) and corrective action plan (rule 335-6-15-.29(1)); and

4. A notification before permanent closure or change-in-service (rule 335-6-15-.34(1)) and upon completion of final closure or change-in-service assessment report (rule 335-6-15-.35(1)).

5. Results of all tightness, cathodic protection, spill catchment basin, and leak detector testing of a UST system within 30 days after completion of testing or as directed by the Department.

6. Annual summary of test results no later than January 31st of each year or as directed by the Department for any approved method of leak detection under rule 335-6-15-.17(h) as required by the Department.

(b) Recordkeeping. Owners and operators must maintain the following information:

1. Documentation of operation of corrosion protection equipment (rule 335-6-15-.10);
335-6-15-.14

2. Documentation of UST system repairs [rule 335-6-15-.12(g)];

3. Compliance with release detection requirements (rule 335-6-15-.19);

4. Documentation of all tightness, cathodic protection, and spill catchment basin testing performed for an UST system.

5. Results of the site investigation conducted at permanent closure (rule 335-6-15-.37).

6. Documentation of release detection equipment maintenance and calibrations (rule 335-6-15-.19).

7. Documentation of compliance with notification requirements (rule 335-6-15-.05).

8. Documentation of operator training.

(c) Availability and Maintenance of Records. Owners and operators must keep the records required either:

1. At the UST site and immediately available for inspection by the Department; or

2. At a readily available alternative site and be provided for inspection to the Department upon request.

3. In the case of permanent closure, records required under rule 335-6-15-.37 may be mailed to the Department if they cannot be kept at the site or an alternative site.

(d) Current proof of tank registration shall be displayed at active retail petroleum facilities.

Author: Sonja Massey.
History: April 5, 1989.
Amended: October 2, 2003; August 6, 2007; April 25, 2008; November 24, 2009; January 16, 2012; April 1, 2014.

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

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

(a) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;
(b) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and

(c) Meets the performance requirements in rule 335-6-15-.17 or rule 335-6-15-.18, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after December 22, 1990, except for methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that method in rule 335-6-15-.17(b), (c) and (d) or rule 335-6-15-.18(a) and (b) with a probability of detection of 0.95 and a probability of false alarm of 0.05.

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

(3) Owners and operators of all UST systems must comply with the release detection requirements of this chapter by December 22 of the year listed in Table A.

(4) Any existing UST system that cannot apply a method of release detection that complies with the requirements of this chapter must complete the closure procedures in rules 335-6-15-.34 through 335-6-15-.37 by the date on which release detection is required for that UST system under paragraph (3) of this rule.

(5) Owners of existing UST systems shall submit to the Department a description of the type of release detection method or methods which will be used at each site at which an UST system is located.) This description and any required plans and specifications shall be submitted at least 60 days prior to the date for which release detection is required according to Table A.

(6) Release detection on systems employing the methods of vapor monitoring, groundwater monitoring or interstitial monitoring shall be installed according to plans and specifications reviewed by the Department, where required.

(7) Owners and operators must ensure that personnel who are familiar with the monitoring, operation, maintenance and calibration requirements of release detection equipment for an UST system are routinely present at the location of the UST.
### TABLE A
Schedule for Phase-in of Release Detection

<table>
<thead>
<tr>
<th>Year System was Installed</th>
<th>1989</th>
<th>1990</th>
<th>1991</th>
<th>1992</th>
<th>1993</th>
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<tbody>
<tr>
<td>Before 1965 or date unknown</td>
<td>RD</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1965-1969</td>
<td></td>
<td>P/RD</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1970-1974</td>
<td>P</td>
<td>RD</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1975-1979</td>
<td></td>
<td></td>
<td>P</td>
<td>RD</td>
<td></td>
</tr>
<tr>
<td>1980-1988</td>
<td></td>
<td></td>
<td></td>
<td>P</td>
<td>RD</td>
</tr>
<tr>
<td>New Tanks</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Immediately upon installation beginning April 5, 1989 and thereafter.</td>
</tr>
</tbody>
</table>

P = Must begin release detection for all pressurized piping in accordance with rules 335-6-15-.15(b)1. and 335-6-15-.16(b)4.

RD = Must begin release detection for tanks and suction piping in accordance with rule 335-6-15-.15(a), 335-6-15-.15(b)2., and 335-6-15-.16.

Author: Sonja Massey.
History: April 5, 1989.
Amended: October 2, 2003; April 25, 2008.

335-6-15-.15 Release Detection Requirements For Petroleum UST Systems. Owners and operators of petroleum UST systems must provide release detection for tanks and piping as follows:

(a) USTs. USTs installed beginning August 6, 2007 and thereafter, must perform interstitial monitoring monthly in accordance with rule 335-6-15-.17(g). Otherwise, USTs must be monitored at least every 30 days for releases using one of the methods listed in rule 335-6-15-.17(d) through (h) except that:

1. UST systems that meet the performance standards in rules 335-6-15-.06 or 335-6-15-.07, and the monthly inventory control requirements in rule 335-6-15-.17(a) or (b), may use tank tightness testing [conducted in accordance with rule 335-6-15-.17(e)] on USTs installed or upgraded under rule 335-6-15-.07(2) until January 16, 2013;
2. UST systems that do not meet the performance standards in rules 335-6-15-.06 or 335-6-15-.07 may use monthly inventory controls (conducted in accordance with rule 335-6-15-.17(a) or (b) and annual tank tightness testing (conducted in accordance with rule 335-6-15-.17(c) until December 22, 1998, when the tank must be upgraded under rule 335-6-15-.07 or permanently closed under rule 335-6-15-.34; and

3. Tanks with nominal capacity of 1000 gallons or less may use weekly tank gauging (conducted in accordance with rule 335-6-15-.17(b).

(b) Piping. Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:

1. **Pressurized Piping.** Underground piping that conveys regulated substances under pressure must:

   (i) Be equipped with an automatic line leak detector conducted in accordance with rule 335-6-15-.18(a); and

   (ii) Pressurized underground piping installed beginning August 6, 2007 and thereafter, must perform monthly interstitial monitoring in accordance with rule 335-6-15-.18(c) and as described in rule 335-6-15-.17(g). Pressurized underground piping installed before August 6, 2007 must have an annual line tightness test conducted in accordance with rule 335-6-15-.18(b) or have monthly monitoring conducted in accordance with rule 335-6-15-.18(c).

2. **Suction Piping.** Underground piping that conveys regulated substances under suction installed on or after April 25, 2008 must perform monthly interstitial monitoring in accordance with rule 335-6-15-.18(c) and as described in rule 335-6-15-.17(g). Underground piping that conveys regulated substances under suction installed before April 25, 2008 must either have a line tightness test conducted at least every 3 years and in accordance with rule 335-6-15-.18(b), or use a monthly monitoring method conducted in accordance with rule 335-6-15-.18(c). No release detection is required for suction piping that is designed and constructed to meet the following standards:

   (i) The below-grade piping operates at less than atmospheric pressure;

   (ii) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

   (iii) Only one check valve is included in each suction line;

   (iv) The check valve is located directly below and as close as practical to the suction pump; and

   (v) A method is provided that allows compliance with subparagraphs (ii) through (iv) above, to be readily determined.
335-6-15-.16

(c) Any petroleum UST systems installed prior to August 6, 2007 which are: located within 1000 feet of a public water supply well; located within 300 feet of a private domestic water supply; or which are located in an area which the Department has determined to be exceptionally vulnerable to groundwater contamination, may be required to take additional measures to prevent contamination of groundwater. Such measures may include: the installation of a release detection in accordance with one of the methods in rule 335-6-15-.17(d) through (h) for tanks and (e) through (h) for piping and/or the implementation of more frequent monitoring of release detection systems.

Author: Sonja Massey.
History: April 5, 1989.
Amended: October 2, 2003; August 6, 2007; April 25, 2008; January 16, 2012; April 1, 2014.

335-6-15-.16 Release Detection Requirements For Hazardous Substance UST Systems. Owners and operators of hazardous substance UST systems must provide release detection that meets the following requirements:

(a) Hazardous substance UST systems installed beginning August 6, 2007 and thereafter must meet the release detection requirements for petroleum UST systems in rule 335-6-15-.15.

(b) By December 22, 1998, all existing hazardous substance UST systems must have secondary containment and meet the following release detection requirements:

1. Secondary containment systems must be designed, constructed and installed to:

   (i) Contain regulated substances released from the tank system until they are detected and removed;

   (ii) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

   (iii) Be checked for evidence of a release at least every 30 days.

2. Double-walled tanks must be designed, constructed, and installed to:

   (i) Contain a release from any portion of the inner tank within the outer wall; and

   (ii) Detect the failure of the inner wall.

3. External liners (including vaults) must be designed, constructed, and installed to:
335-6-15-.17 Methods Of Release Detection For Tanks. Each method of release detection for tanks used to meet the requirements of rule 335-6-15-.15 must be conducted in accordance with the applicable requirements (a) through (h) of this rule. The Department may make a determination as to the capability of release detection equipment to meet the requirements of this rule.

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

1. Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;
2. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

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

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

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

6. The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month.

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

1. Tank liquid level measurements are taken at the beginning and ending of the period shown in subparagraph 4. below during which no liquid is added to or removed from the tank;

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

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

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

<table>
<thead>
<tr>
<th>Nominal Tank Capacity</th>
<th>Minimum Duration of Test</th>
<th>Weekly Standard (one test)</th>
<th>Monthly Standard (average of 4 tests)</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 550 gallons</td>
<td>36 hours</td>
<td>10 gallons</td>
<td>5 gallons</td>
</tr>
<tr>
<td>551-1,000 gallons (when tank diameter is 64&quot;)</td>
<td>44 hours</td>
<td>9 gallons</td>
<td>4 gallons</td>
</tr>
<tr>
<td>551-1,000 gallons (when tank diameter is 48&quot;)</td>
<td>58 hours</td>
<td>12 gallons</td>
<td>6 gallons</td>
</tr>
</tbody>
</table>

5. Only tanks of 1000 gallons or less nominal capacity may use this as a method of release detection.
(c) **Tank Tightness Testing.** Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

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

2. Unless waived by the Department the report of tightness testing of a tank must state whether or not the water table was above the base of the tank excavation pit at the time of testing and the method by which this determination was made. If it is above the base, the specific elevation of the water table shall be determined and recorded in the test report.

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

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

2. Inventory control (or another test of equivalent performance) is conducted in accordance with the requirements of rule 335-6-15-.17(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subparagraphs (e) 2. through 5. of this rule and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product;
15. Vapor monitoring wells are clearly marked with the wording "NOT FOR DELIVERIES" or other sufficient language and locked to avoid unauthorized access and tampering. Monitoring wells which are located in an area subject to traffic must be equipped with enclosures which will not be damaged by normal traffic.

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

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

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

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

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

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

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

5. Monitoring wells used for the purpose of release detection by groundwater monitoring shall be constructed according to the requirements of 6. through 15. and 20. below;

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

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

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

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

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

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

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

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

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

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

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

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

   (ii) Be tested at the site; or

   (iii) Be sent to a laboratory and tested.

17. A monitoring well must contain at least 6 inches of water or a sufficient depth to allow a sample to be obtained using a sampler selected in accordance with subparagraph (f)15. of this rule. If this requirement cannot be met for more than 30 days, the Department may require the monitoring well to be replaced, or another method of monitoring to be proposed to the Department for review.

18. The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells;
19. Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subparagraphs (f)2. through 15. above and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the UST system that routinely contains product. This is to include an evaluation of the direction of the groundwater gradient at a site.

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

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

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

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

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

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

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

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

(ii) The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;
For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

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

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

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

Monitoring wells extend to within 6 inches of the secondary barrier but shall not contact the barrier;

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

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

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

2. The owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subparagraphs (c) through (h) above. In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed by the ADEM on its use to ensure the protection of human health and the environment.

Author: Sonja Massey.
History: April 5, 1989.
Amended: August 6, 2007; April 25, 2008; January 16, 2012; April 1, 2014.

Methods Of Release Detection For Piping. Each method of release detection for piping used to meet the requirements of rule 335-6-15-.15 must be conducted in accordance with the following:

Automatic line leak detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated
substances through piping may be used only if they detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. Systems which only trigger an audible or visual alarm must be modified to also include the ability to restrict or shut off the flow of regulated substances prior to August 6, 2008. An annual test of the operation of the leak detector must be conducted in accordance with the manufacturer’s requirements.

(b) Line tightness testing. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure. The test must be performed by an individual having current certification of training from the manufacturer of the test method.

(c) Applicable tank methods. Any of the methods in rule 335-6-15-.17(e) through (h) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

Author: Sonja Massey.
History: April 5, 1989.
Amended: August 6, 2007; April 1, 2014.

335-6-15-.19 Release Detection Recordkeeping. All UST system owners and operators must maintain records in accordance with rule 335-6-15-.13 demonstrating compliance with all applicable requirements of this chapter. These records must include the following:

(a) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for 5 years from the date of installation;

(b) The results of any sampling, testing, or monitoring must be maintained for at least 1 year except that the results of tank tightness testing conducted in accordance with rule 335-6-15-.17(c) and line testing conducted in accordance with rule 335-6-15-.15(b)2 must be retained until the next test is conducted; and

(c) Written documentation of all calibration, maintenance, and repair of release detection equipment must be maintained for at least one year after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for 5 years from the date of installation.
335-6-15-.20 Reporting of Suspected Releases. Owners and operators of UST systems must report suspected releases to the Department immediately upon discovery but in no case later than 24 hours following discovery, and follow the procedures in rule 335-6-15-.22 for any of the conditions identified in (a) through (c) below.

(a) The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area including but not limited to the presence of free or dissolved product or vapors in soils, groundwater, basements, sewer and utility lines, nearby surface water or a well contaminated with a regulated substance.

(b) Unusual operating conditions observed by owners and operators (including but not limited to the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, or an unexplained presence of water in the tank), unless product dispensing equipment is found to be defective but not leaking, and is immediately repaired or replaced.

(c) Monitoring results from a release detection method required under rules 335-6-15-.15 and 335-6-15-.16 that indicate a release may have occurred unless:

1. The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial results; or

2. In the case of inventory control, where the amount of calculated loss or gain for a month is less than or equal to 1.0 percent of monthly flow-through plus 130 gallons.

335-6-15-.21 Investigation Due to Environmental Impacts. When required by the Department, owners and operators of UST systems must follow the procedures in rule 335-6-15-.22 to determine if the UST system is the source of environmental impacts, which include but are not limited to the discovery of regulated substances (such as the presence of free or dissolved product or vapors in soils, basements, sewer and utility lines, and nearby surface waters, or a well contaminated with a regulated substance that has been observed by the Department or brought to its attention by another party.)
335-6-15-.22 Release Investigation and Confirmation Steps. Unless corrective action is initiated in accordance with rules 335-6-15-.24 through 335-6-15-.31, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under rule 335-6-15-.20 within 7 days, or another reasonable time period specified by the Department, using either the following steps or another procedure approved by the Department:

(a) **System test.** Owners and operators must conduct tests (according to the requirements for tightness testing in rules 335-6-15-.17(c) and 335-6-15-.18(b)) that determine whether a leak exists in the tank, or the attached delivery piping, or both.

1. Owners and operators must repair, replace or upgrade the UST system, and begin corrective action if the test results for the system, tank, or delivery piping indicate that a leak exists.

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

3. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release.

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

(b) **Preliminary investigation.** Owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release. Specific requirements for a preliminary investigation are included in rule 335-6-15-.26.

1. If in the determination of the Department the results of the preliminary investigation indicate that a release has occurred, owners and operators must and initiate corrective action in accordance with rules 335-6-15-.24 through 335-6-15-.31. The Department may require a secondary investigation to be performed.
2. If in the determination of the Department the results of the preliminary investigation do not indicate that a release has occurred, further investigation is not required.

Author: Sonja Massey.
History: April 5, 1989.
Amended: October 2, 2003; April 1, 2014.

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

(1) Owners and operators of UST systems must contain and immediately clean up a spill or overfill and report to the Department within 24 hours, or another reasonable time period specified by the Department, and begin corrective action in accordance with rules 335-6-15-.24 through 335-6-15-.31 in the following cases:

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

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

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

Author: Sonja Massey.
History: April 5, 1989.

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

(1) Owners and operators of petroleum or hazardous substance UST systems must, in response to a confirmed release from the UST system, comply with the requirements of rules 335-6-15-.24 through 335-6-15-.31 except for USTs excluded under rule 335-6-15-.03(2) and UST systems subject to corrective action requirements under division 14 of the ADEM Administrative Code.
(2) Upon confirmation of a release in accordance with rule 335-6-15-.22 or after a release is identified in any other manner, owners and operators must perform the following initial response actions within 24 hours of a release or within another reasonable period of time determined by the Department:

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

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

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

Author: Sonja Massey.
History: April 5, 1989.
Amended: October 2, 2003; April 25, 2008.

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

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

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

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

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

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

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

   (f) Investigate to determine the possible presence of free product, and if found, begin free product removal as soon as practicable and in accordance with rule 335-6-15-.27. Where free product is present, investigative and
corrective actions must be initiated in accordance with rules 335-6-15-.24 through 335-6-15-.31;

(g) Where dissolved groundwater contamination is determined to occur, for example, the contamination of an on-site well with a regulated substance, investigative and corrective actions must be initiated in accordance with rules 335-6-15-.24 through 335-6-15-.31;

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

Author: Sonja Massey.
History: April 5, 1989.

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

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

(a) Type of surrounding population, e.g., urban, rural, residential;

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

(c) Location of any public water supply wells which are within 1 mile of the site;

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

(e) A determination of the uppermost aquifer and an initial evaluation of the potential for hydraulic interconnection with lower aquifers. This evaluation at this stage may be made based upon the results of site soil sampling and borings and available literature data.
(f) Results of soil sampling collected from the area which is most likely to have been affected by a release of a regulated substance.

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

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

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

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

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

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

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

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

(d) If the conditions identified in 1. and 2. below are met, the Department may consider the investigation to be complete and no further action will be required. If the conditions identified in 1. and 2. below cannot be met, the Department may require additional investigative actions or a preliminary investigation, in accordance with paragraph (1) of this rule, to be conducted.
335-6-15-.26

<table>
<thead>
<tr>
<th>Total Petroleum Hydrocarbon Concentration</th>
<th>Depth to Groundwater</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. 100 ppm or less for each sample</td>
<td>5 feet or more below base of tank excavation</td>
</tr>
<tr>
<td>2. 10 ppm or less for every sample</td>
<td>No restrictions</td>
</tr>
</tbody>
</table>

(3) Monitoring wells must be constructed in a manner acceptable to the Department or the Department may require them to be properly closed. Except where cross-contamination of aquifers is of concern, general construction details for monitoring wells should conform to the requirements of rules 335-6-15-.17(f)6. through 8. and 10. through 14. and 20., and where cross-contamination is of concern, monitoring well construction details must be reviewed in advance by the Department. The Department may require modification of proposed construction details.

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

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

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

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

(8) The Department may require additional sampling and analyses to be performed if it is determined that the number or location of samples, or methods used in the analysis of such samples are not sufficient to characterize the area and soil depths most likely to have been contaminated by a release.
335-6-15-.27 **Free Product Removal.** At sites where investigations indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the Department while continuing, as necessary, any actions initiated under rules 335-6-15-.24 through 335-6-15-.26 or preparing for actions required under rules 335-6-15-.28 and 335-6-15-.29. In meeting the requirements of this section, owners and operators must:

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

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

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

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

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

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

(3) The type of free product recovery system used;

(4) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;

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

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

(7) The disposition of the recovered free product.
(e) The Department may require additional measures to be taken to achieve free product recovery, if it is determined that the objectives of paragraphs (a) through (c) are not being accomplished.

Author: Sonja Massey.
History: April 5, 1989; April 1, 2014.

335-6-15-.28 Secondary Investigation Requirements.

(1) When required in order to determine the full lateral and vertical extent and location of: soils contaminated by the release; the presence of free product; and the presence and concentrations of dissolved product contamination in the groundwater, the Department may require owners and operators to conduct a secondary investigation of the release site. This investigation must include the surrounding area possibly affected by the release if any of the following conditions exist:

(a) There is evidence that groundwater wells have been affected by the release (e.g., as found during release confirmation or previous corrective action measures);

(b) Free product is found to need recovery in compliance with rule 335-6-15-.27;

(c) There is evidence that contaminated soils may be in contact with groundwater (e.g., as found during conduct of the initial response measures or investigations required under rules 335-6-15-.24 through 335-6-15-.26); and

(d) The Department requests an investigation, based on the potential effects of contaminated soil or groundwater on nearby surface water and groundwater resources.

(2) The investigations required by paragraph (1) of this rule shall:

(a) Be sufficient to define the full lateral and vertical extent of soil and groundwater contamination;

(b) Determine the rate and direction of pollutant and groundwater migration through the use of piezometers and/or monitoring wells;

(c) Include results of groundwater sampling and analysis from monitoring wells at one background and a minimum of three down-gradient locations. The location of the down-gradient wells should take into consideration the direction of groundwater flow and should be placed so as to define the plume of contamination and the outer limits of the plume of contamination.

(d) Include a determination of the uppermost aquifer and an initial evaluation of the potential for hydraulic interconnection with lower aquifers.
This evaluation may be made based upon the results of site soil sampling and borings and available literature data but may also require installation of wells into underlying aquifers. If this becomes necessary proper well construction techniques must be used to ensure that wells do not serve as conduits for contamination of underlying aquifers.

(e) Include analytical results for soil and groundwater samples for parameters which are appropriate to the nature of the stored substance and according to methods specified in rule 335-6-15-.32.

(f) Provide sufficient information for the selection and design of appropriate corrective actions.

(3) The Department may require additional sampling and analyses to be performed if it is determined that the number or location of samples, or methods used in the analysis of such samples are not sufficient to define the full lateral and vertical extent of soil and groundwater contamination.

(4) Owners and operators must submit a plan of study sufficient to accomplish the objective of paragraphs (1) and (2) of this rule together with a schedule of implementation. The owners and operators shall make any modifications to the plan of study deemed necessary by the Department.

(5) The plan of study must contain construction details for monitoring wells. Monitoring wells must be constructed in a manner acceptable to the Department or the Department may require them to be properly closed. Except where cross-contamination of aquifers is of concern, general construction details for monitoring wells should conform to the requirements of rule 335-6-15-.17(6) through 8. and 10. through 14. and 20. The Department may require modification of proposed construction details.

(6) Owners and operators must submit the information collected under paragraphs (1) through (3) of this rule within the schedule submitted in (4) above or in accordance with a schedule established by the Department.

(7) The secondary site investigation must be performed in accordance with accepted geologic practices by a licensed professional geologist or registered professional engineer experienced in hydrogeologic investigations.

Author: Sonja Massey.
History: April 5, 1989.
Amended: October 2, 2003; August 6, 2007.
(1) At any point after reviewing the information submitted in compliance with rules 335-6-15-.24 through 335-6-15-.28, the Department may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and groundwater. If a plan is required, owners and operators must submit the plan according to a schedule and format established by the Department. Alternatively, owners and operators may, after fulfilling the requirements of rules 335-6-15-.24 through 335-6-15-.28, choose to submit a corrective action plan for responding to contaminated soil and groundwater. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Department, and must modify their plan as necessary to meet the requirements of the Department for achieving this standard.

(2) The corrective action plan must:

(a) Address the full lateral and vertical extent of soil and groundwater contamination;

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

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

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

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

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

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

(3) The Department will approve the corrective action plan only when satisfied that implementation of the plan provides for measures considered adequate to protect human health, safety, and the environment. In making this determination, the Department should consider the following factors as appropriate:

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

(c) The findings of the preliminary and secondary investigations;

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

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

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

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

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

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

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

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

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

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

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

(8) Upon conclusion of investigative monitoring, or corrective actions at a site, the Department may require any or all monitoring wells to be properly closed.
Corrective Action Requirements. The following requirements shall apply when establishing risk based corrective action limits applicable to the cleanup of soil and ground water contamination resulting from releases from underground storage tanks regulated under this chapter.

(a) A risk based corrective action process will be used to establish site specific corrective action limits protective of human health and the environment. Corrective action limits, institutional controls, or a combination thereof, shall be adequate to support onsite and surrounding property use consistent with existing and reasonable future use and achieve and maintain compliance with all applicable environmental standards for air, soil and waters of the state. The only exception to the use of a risk based corrective action process shall be that as described in 335-6-15-.30(f).

(b) Free product shall be removed to the maximum extent practicable.

(c) A risk based corrective action process requires the specification of a target risk level for carcinogenic effects. The estimated individual excess lifetime cancer risk (IELCR) will be:

1. For constituents resulting from releases of petroleum or petroleum-based regulated substances, as regulated under this chapter, the estimated IELCR level used to establish site specific corrective action limits shall be $10^{-5}$, for all constituents of concern, for each exposure pathway. If corrective action to a $10^{-5}$ risk level is determined by the Department to be infeasible, and in the determination of the Department, appropriate institutional controls are implemented, the Department may approve a site-specific corrective action limit that represents a risk level equal to but not greater than $10^{-4}$.

2. For constituents resulting from releases of non-petroleum regulated substances, as regulated under this chapter, the estimated IELCR used to establish site specific corrective action limits shall be no less than $10^{-6}$ and no greater than $10^{-5}$. If corrective action to a $10^{-6}$ to $10^{-5}$ risk level is determined by the Department to be infeasible, and in the determination of the department, appropriate institutional controls are implemented, the Department may approve a site specific corrective action limit that represents a risk level equal to but not greater than $10^{-4}$.

(d) For non-carcinogenic substances, a hazard quotient of one will be used.

(e) For the ground water ingestion pathway, for constituents for which a Maximum Contaminant Level, MCL, has been established, the
corrective action limit shall be set equal to the MCL. For carcinogenic constituents for which a Maximum Contaminant Level has not been established, the estimated IELCR shall be $10^{-6}$.

(f) For hydrogeologic settings, where the models used in the risk based evaluations are considered in the determination of the Department, not to be representative of, and thus not protective of, a given hydrogeologic setting, the Department may require implementation of a corrective action plan to continue until the concentration of dissolved contaminants has leveled off. Leveling off shall mean that the graph of the contaminant concentration versus time fits a curve generally defined by the equation $C = C_f + C_0 e^{-kt}$, and the slope of the final portion of the curve approaches zero. Alternatively, the Department may approve the use of a statistical method for use in demonstrating that contaminant concentrations are no longer decreasing with continued corrective action. An indicator parameter satisfactory to the Department shall be selected for application to the curve. In the equation above, the symbols are defined as follows:

1. $C$ - contaminant concentration at time $t$;
2. $C_f$ - the final concentration which the curve approaches asymptotically;
3. $C_0$ - the concentration difference between the final concentration and the concentration at time zero;
4. $e$ - 2.718, the base of natural logarithms;
5. $k$ - an exponential factor which indicates how fast the concentration approaches $C_f$;
6. $t$ - time in days from some fixed starting point.

(g) Corrective action limits, institutional controls, or a combination thereof, shall be developed and submitted for approval by the Department, using a format, procedures, and within a schedule acceptable to the Department.

(h) Corrective action, institutional controls, or a combination thereof, shall be implemented, where necessary, to meet the objectives of this rule, within a schedule acceptable to the Department.

Author: Sonja Massey.

335-6-15-.31 Public Participation.
(1) For each confirmed release that requires a corrective action plan, the Department must provide a 15 day notice to the public by means designed to reach those members of the public directly affected by the release and the planned corrective action. This notice may include, but is not limited to, public notice in local newspapers, block advertisements, public service announcements, publication in a state register, letters to individual households, or personal contacts by field staff.

(2) The Department must ensure that site release information and decisions concerning the corrective action plan are made available to the public for inspection upon request.

(3) Before approving a corrective action plan, the Department may hold a public meeting to consider comments on the proposed corrective action plan if there is sufficient public interest, or for any other reason.

(4) The Department must give public notice that complies with paragraph (1) above if implementation of an approved corrective action plan does not achieve the corrective action limits established in accordance with rule 335-6-15-.30 and termination of that plan is under consideration by the Department.

Author: Sonja Massey.
History: April 5, 1989.
Amended: October 2, 2003; April 25, 2008; April 1, 2014.

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

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

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

(b) Gasoline analytical group. Analysis of groundwater or surface waters required by this chapter for petroleum contaminants of this group shall be performed for the following parameters according to the type of petroleum product causing the contamination.
1. Volatile organic halocarbons (including priority pollutant compounds)  
   EPA Method 601

2. Benzene, ethyl benzene, toluene and total xylenes  
   EPA Method 602 or 624

3. 1, 2-Dibromoethane  
   EPA Method 504.1

4. Lead  
   EPA Method 239.2

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

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

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>Polynuclear aromatic hydrocarbons (PAH) (Including 15 priority pollutant PAH's plus 2-Methylnaphthalene and 1-Methylnaphthalene)</td>
<td>EPA Method 601 or 625</td>
</tr>
<tr>
<td>Benzene, ethyl benzene, toluene and total xylenes</td>
<td>EPA Method 602 or 624</td>
</tr>
<tr>
<td>Volatile organic halocarbons (including priority pollutant compounds)</td>
<td>EPA Method 601</td>
</tr>
<tr>
<td>1, 2-Dibromoethane</td>
<td>EPA Method 504.1</td>
</tr>
<tr>
<td>Lead</td>
<td>EPA Method 239.2</td>
</tr>
</tbody>
</table>

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

(e) Where the results of initial analyses of soil or groundwater do not indicate the presence of a contaminant listed in subparagraphs (a) through (c) above, or indicate that the presence of the contaminant is due to an ambient concentration, the Department may waive requirements for further testing for that contaminant.

(f) The Department may approve additional methods for the monitoring or investigation of regulated substances which have been released to soils, groundwaters or surface waters of the state.
335-6-15-.33

Author: Sonja Massey.
History: April 5, 1989.

335-6-15-.33 Temporary Closure.

(1) When an UST system is temporarily closed, owners and operators must:

(a) Continue operation and maintenance of corrosion protection in accordance with rule 335-6-15-.10, and any release detection in accordance with rules 335-6-15-.14 through 335-6-15-.19. However, release detection is not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system,

(b) Comply with rules 335-6-15-.20 through 335-6-15-.25 if a release is suspected or confirmed, and

(c) Immediately empty and within 90 days either repair in accordance with rule 335-6-15-.12 or permanently close the UST system in accordance with rules 335-6-15-.34, 335-6-15-.35 and 335-6-15-.37 if the UST owner, operator, or Department is aware of the UST system being compromised in any way such that it may release regulated substance.

(2) When an UST system is temporarily closed for 3 months or more, owners and operators must also comply with the following requirements:

(a) Leave vent lines open and functioning; and

(b) Cap and secure all other lines, pumps, man ways, and ancillary equipment.

(3) When an UST system is temporarily closed for more than 12 months, owners and operators must permanently close the UST system if it does not meet either performance standards in rule 335-6-15-.06 for new UST systems or the upgrading requirements in rule 335-6-15-.07, except that the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the substandard UST systems within 90 days from the end of this 12-month period in accordance with rules 335-6-15-.34 through 335-6-15-.37, unless the Department provides an extension of the 12-month temporary closure period. Owners and operators must complete a site assessment in accordance with rule 335-6-15-.26 before such an extension can be applied for.
335-6-15-.34 Permanent Closure and Changes-In-Service.

(1) At least 30 days before beginning either permanent closure or a change-in-service of an UST system under paragraphs (2) and (3) below, or within another reasonable time period determined by the Department, owners and operators must notify the Department of their intent to permanently close or make the change-in-service, and the method of proposed closure, unless such action is in response to corrective action. The required assessment of the excavation zone under rule 335-6-15-.35 must be performed after notifying the Department but before completion of the permanent closure or change-in-service. Upon completion, a notice of final closure or change-in-service must be submitted to the Department.

(2) To permanently close an UST system, owners and operators must:

(a) Empty and clean underground storage tanks by removing all liquids and accumulated sludges and either remove from the ground or leave in place and fill with an inert solid material,

(b) Empty underground piping by removing all liquids and either remove from the ground or cap and leave in place,

(c) Cap or remove all lines, manways, and/or other connections,

(d) Conduct a site assessment when an underground storage tank and/or piping is permanently closed in accordance with paragraph (1) above, and

(e) Properly close all UST systems:

1. Under the supervisory control of an individual or individuals certified in accordance with the requirements in rule 335-6-15-.47;

2. In accordance with codes of practice developed by nationally recognized associations or independent testing laboratories.

(3) Continued use of an UST system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners and operators must empty and clean the UST system by removing all liquid and accumulated sludge and conduct a site assessment in accordance with paragraph (1) above.
335-6-15-.35 Site Closure or Change-In-Service Assessment.

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

(2) If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered under paragraph (1) above, or by any other manner, owners and operators must begin corrective action in accordance with rules 335-6-15-.24 through 335-6-15-.31.

Author: Sonja Massey.
History: April 5, 1989.

335-6-15-.36 Applicability to Previously Closed UST Systems.

When directed by the Department, the owner and operator of an UST system permanently closed before April 5, 1989 must assess the excavation zone and close the UST system in accordance with rules 335-6-15-.34 and 335-6-15-.35 if releases from the UST may, in the judgment of the Department, pose a current or potential threat to human health and the environment.
335-6-15-.37 **Closure Records.** Owners and operators must maintain records in accordance with rule 335-6-15-.13 that are capable of demonstrating compliance with closure requirements under rules 335-6-15-.33 through 335-6-15-.36. The results of the excavation zone assessment required in rule 335-6-15-.35 must be submitted to the Department and be maintained for at least 3 years after completion of permanent closure or change-in-service in one of the following ways:

(a) By the owners and operators who took the UST system out of service;

(b) By the current owners and operators of the UST system site.

335-6-15-.38 **Alternate or Temporary Drinking Water Source.** Where an owner or operator is responsible for polluting a drinking water source beyond applicable standards, or where no standard exists, such standard as the Director shall determine, the Department may require the owner or operator to provide an alternate or temporary drinking water source to any person deprived of drinking water.

335-6-15-.39 **Availability to Public of Records, Reports or Information.** Any records, reports, or information obtained under this chapter shall be available to the public; except that upon a showing satisfactory to the Department by any person that records, reports or information, or a particular part thereof to which the department has access under this chapter if made public, would divulge production or sales figures or methods, processes or production unique to such person or would otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the Department shall consider such record, report, or information or particular portion thereof, confidential. Nothing in this paragraph shall be construed to prevent disclosures of such report, record, or information to federal or state representatives as necessary for purposes of administration of any federal or
state laws or when relevant to proceedings under this chapter. Information concerning the presence or concentration of substances in waters shall not be considered confidential by the Department (Acts 1988, No. 88-537, § 8.)

Author: Sonja Massey.
History: April 5, 1989.

335-6-15-.40 Access to Records. Any owner or operator of an underground storage tank shall upon request of a duly authorized representative of the Department, permit the representative, at all reasonable times, access to all records concerning the storage of regulated substances and permit the representative to copy said records.

Author: Sonja Massey.
History: April 5, 1989.

335-6-15-.41 Entry and Inspection of Facilities. Any owner or operator of an underground storage tank shall upon request of a duly authorized representative of the Department, permit the representative to enter, at all reasonable times, property and buildings where an underground storage tank is located and allow the representative to inspect facilities and equipment and to conduct monitoring and sampling.

Author: Sonja Massey.
History: April 5, 1989.

335-6-15-.42 Underground Storage Tank Regulation Fee. Any owner of an underground storage tank shall pay a yearly Underground Storage Tank Regulation Fee of not less than $15.00 and not more than $30.00 per regulated tank per year. The amount of the fee shall be determined annually by the Director. Payment of the fee shall be due within 30 days of notification to the owner by the Department of the amount of such fee.

Author: Sonja Massey.
History: April 5, 1989.

335-6-15-.43 Financial Responsibility for Petroleum UST Owners and Operators. 40 CFR Part 280 §§ 280.90 through 280.112 is hereby adopted by reference. This rule sets forth the amounts of financial responsibility required of
335-6-15-.43

petroleum UST owners and operators and the mechanisms allowed for satisfying these requirements. Copies of this rule are available from ADEM. Charges for reproduction apply.

Author: Sonja Massey.
History: April 5, 1989.

335-6-15-.44 Financial Responsibility for Hazardous Substance UST Owners and Operators. (Reserved)

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

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

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

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

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

(c) Upon implementation of delivery prohibition as described in subparagraph (b) above, it shall be unlawful for any regulated substance deliverer to deliver a regulated substance, and it shall be unlawful for owners and operators of UST systems to accept delivery of a regulated substance to an underground storage tank facility that is under delivery prohibition.
(d) When the Department has received all documentation required by the Department to demonstrate that the underground storage tank facility has returned to compliance:

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

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

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

Author: Sonja Massey.
History: April 25, 2008.
Amended: November 24, 2009; January 16, 2012; April 1, 2014.

335-6-15-.46 Operator Training.

(1) Owners and operators of underground storage tank systems shall designate a Class A, Class B, and Class C operator as defined in rule 335-6-15-.02(pp) through (rr). All persons designated as a Class A, B, or C operator shall be trained in accordance with paragraphs (3), (4) and (5) of this rule. Different persons may be designated for each classification or a person may be designated to more than one classification. A person who is designated to more than one operator classification shall be trained in each classification for which the person is designated. Training programs that qualify a participant in more than one operator classification are allowed.

(2) Owners and operators shall identify, for each underground storage tank system or group of underground storage tank systems at a facility, at least one person for each class of operator. Class A and Class B operator training records shall be maintained either at the underground storage tank facility or at an alternative site. Documentation of training shall be provided to the Department upon request. Class C operator training records shall be maintained at the underground storage tank facility so that they are immediately available upon inspection by the Department.

(3) Operator training shall satisfy the following minimum requirements for each operator classification.

(a) Class A operator training shall provide a general knowledge of underground storage tank system requirements so the operator can make
informed decisions regarding compliance and ensure responsible persons are fulfilling operation, maintenance, and recordkeeping requirements and standards in accordance with this chapter regarding underground storage tank:

1. Spill prevention;
2. Overfill prevention;
3. Release detection;
4. Corrosion protection;
5. Emergency response;
6. Product compatibility;
7. Documentation of financial responsibility;
8. Notification and registration;
9. Release and suspected release reporting;
10. Temporary and permanent closure; and
11. Operator training.

(b) Class B operator training shall provide a more in-depth understanding of operation and maintenance aspects than Class A training, but may cover a more narrow breadth of regulatory requirements. Class B operators may obtain either site-specific operator training, which is focused only on equipment used at the underground storage tank facility, or training in broader regulatory requirements. At a minimum, Class B operator training shall encompass the following:

1. Components of underground storage tank systems;
2. Materials of underground storage tank system components;
3. Methods of release detection and release prevention applied to underground storage tank components; and
4. Underground storage tank operation and maintenance requirements including:
   (i) Spill prevention,
   (ii) Overfill prevention,
   (iii) Release detection,
   (iv) Corrosion protection,
(v) Emergency response,

(vi) Product compatibility,

(vii) Reporting and recordkeeping, and

(viii) Class C operator training.

(c) Class C operator training shall provide, at a minimum, instruction on:

1. Immediate actions required to be taken in response to emergencies, such as situations posing an immediate danger or threat to the public or to the environment; and

2. Actions required to be taken in response to alarms caused by spills or releases from an underground storage tank system.

(4) The training requirements of this rule may be satisfied by any one or combination of the following:

(a) An operator training program conducted by the Department; or the owner, the operator or a third party, that has received prior Department approval. The program may include in-class, on-line, or hands-on training, and shall include an evaluation of operator knowledge. Examples of evaluation include testing, practical demonstration, or other tools acceptable to the Department.

(b) An examination designed to measure operator knowledge and administered by the Department; or the owner, the operator, or a third party, acceptable to the Department. The examination shall reasonably determine that the person tested has the necessary knowledge and skills to be considered competent to operate underground storage tanks.

(c) Class C operators may be trained by Class A and Class B operators that are employed by the same tank owner as the C operator.

(d) Operator training received outside the State of Alabama that is verified by and acceptable to the Department.

(5) All persons designated as Class A, Class B, or Class C operators shall satisfy the training requirements of this rule no later than August 8, 2012. After August 8, 2012, operators shall be trained as follows:

(a) Class A and Class B operators shall be trained within 30 days after assuming operation and maintenance responsibilities for an underground storage tank system.

(b) Class C operators shall be trained before assuming responsibility for responding to emergencies.
(6) In the event the Department determines that an underground storage tank system is not in compliance with the requirements of this chapter, the responsible operator(s) shall be retrained. The Department may determine that any one Class A, B, or C operator be retrained, or any combination of Class A, B, or C operators be retrained. Operators shall be retrained within a reasonable time established by the Department. At a minimum, retraining shall include training in the areas determined not in compliance with the requirements of this chapter.

Author: Sonja Massey.
History: November 24, 2009; January 16, 2012; April 1, 2014.

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

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

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

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

2. Immediately prior to pursuing certification, have documentation of 3 jobs in the last 3 year period that can be verified by the Department or a Department Approved Certifying Organization in which the individual was involved in installation, closure, or repair of UST systems; and for jobs after July 16, 2012, if applicable in the state where the job experience was acquired, documentation of the name of the certified individual who supervised the installation, closure, or repair of UST systems;
3. Have proof of individual financial responsibility or employer’s financial responsibility as follows:

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

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

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

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

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

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

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

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

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

7. Be identified by a Department approved certifying organization as an individual who is certified to exercise supervisory control with regard to performing installation, closure and repair of UST systems in Alabama; and
(b) Grandfathering. Beginning January 16, 2012 through July 16, 2012 all those individuals who are currently certified as having successfully completed an UST system installation, closure, and repair certification program in the State of Alabama will be considered to have met the requirements for installation, closure and repair of UST systems under this rule upon demonstration of the following:

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

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

3. Apply to a Department approved certifying organization for certification to exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule no later than July 16, 2012. Those individuals that are not certified by this date, must meet all the requirements of paragraph (1)(a) of this rule to become certified under this rule.

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

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

(d) Recertification. Certification to exercise supervisory control with regard to performing installation, closure, and repair of UST systems under this rule expires 3 years after issuance by the Department approved certifying organization. Therefore, an individual must be recertified every 3 years by a Department approved certifying organization to maintain certification as follows:

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

(i) Proof of certification from a Department approved certifying organization for the previous 3 year period,

(ii) Verification of 16 hours of online or classroom continuing education related to installation, closure, or repair of UST systems that occurred within the 3 year recertification period prior to the certification expiration date, and
(iii) Provide the information described in subparagraph (1)(a)3. of this rule to the Department approved certifying organization.

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

(e) Responsibilities. A certified individual shall:

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

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

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

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

   (iii) Setting of the UST and piping,

   (iv) Connection of piping and UST system components,

   (v) Installation of UST system restraining devices, and

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

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

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

   (ii) Testing atmosphere in and around the tanks,

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

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

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

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

4. Be present at the job site during the following repair critical junctures;
(i) Excavation of any material from around the area of the tanks, piping, sumps, under dispenser containment, or spill catchment basins necessary to make a repair,

(ii) Repair or alteration of the UST system,

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

(iv) Cutting the top of a tank and welding manhole to a tank.

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

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

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

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

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

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

   (i) Gross negligence,

   (ii) Fraud or deception,

   (iii) Failure to correct deficiencies in workmanship,

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

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

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

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

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

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

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

   (i) Installation, closure and repair requirements of this chapter.

   (ii) Installation preparation and tank handling,

   (iii) Preinstallation and post installation testing,

   (iv) Installation and closure excavation,

   (v) Anchoring,

   (vi) Backfilling,

   (vii) Spill and overfill prevention,

   (viii) Leak detection methods for tanks and piping,

   (ix) Corrosion protection,

   (x) Piping,

   (xi) Electrical,
(xii) Tank and/or piping removal,
(xiii) Filling tanks with inert material,
(xiv) Cleaning, purging and inerting tanks,
(xv) Sampling,
(xvi) Repairing of tanks, piping, and sumps,
(xvii) Post repair tightness testing,
(xviii) Applicable United States Department of Labor Occupational Safety and Health Administration (OSHA) requirements,
(xix) Applicable National Fire Protection Association (NFPA) requirements,
(xx) Information contained in the most current versions of Petroleum Equipment Institute (PEI) Recommended Practice RP100, and American Petroleum Institute (API) Recommended Practice 1604, 1615 and 2015,

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

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

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

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

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

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

(a) **Sustained Approval.** The Department may sustain the authorization of a certifying organization to certify individuals under this rule if the audit does not uncover any of the problems indicated in subparagraphs (c).1.(i) through (iv) below, or any other problems deemed appropriate by the Department.

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

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

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

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

   (i) Fraud or deception,

   (ii) Incompetence or inability to perform responsibilities,

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

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

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

Author: Sonja Massey.
History: January 16, 2012; April 1, 2014.

335-6-15-.48 **Severability.** If any paragraph, subparagraph, provision, clause or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
Author: Sonja Massey.
History: April 5, 1989.
This chapter is promulgated to establish administrative guidelines and procedures to determine the manner in which disbursements are made from the Alabama Underground and Aboveground Storage Tank (Tank Trust Fund) and to implement the purposes and objectives of the Alabama Underground Storage Tank Trust Fund Act of 1988 and the Alabama Underground and Aboveground Storage Tank Trust Fund Acts of 1993. (Act No. 93-628 1993 Regular Session and Act No. 93-891 1993 Special Session).
335-6-16-.02 Definitions. The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

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

(b) "Commission" means The Alabama Environmental Management Commission.

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

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

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

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

(g) "Eligible owner" means an owner or operator that is in "Substantial Compliance" as that term is defined in paragraph (ff) of this rule.

(h) "Farm tank" is a tank located on a tract of land, which may or may not include associated residences and improvements, devoted to the production of crops or raising animals, including fish. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

(i) "Final judgment" means any judgment, obtained by a third party in a third party claim, that is enforceable in this State.

(j) "Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.
(k) "Free product" refers to a motor fuel that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water).

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

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

(n) "Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. "Heating oil" is typically used in the operation of heating equipment, boilers, or furnaces.

(o) "Hydraulic lift tanks" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

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

(q) "Motor Fuels" means all grades of gasoline including gasohol or any gasoline blend, number 1 diesel, number 2 diesel, kerosene and all aviation fuels.

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

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

(t) "Operator" means any person in control of, or having responsibility for, the daily operation of the UST or Aboveground Storage Tank (AST) system.

(u) "Owner" means in the case of an UST system in use on November 8, 1984, or brought into use after that date, or in the case of an AST in use on August 1, 1993, or brought into use after August 1, 1993, any person who owns an UST or AST system used for storage, use, or dispensing of motor fuels; and in the case of any UST system in use before November 8, 1984, but no longer in use on that date, or an AST in use before August 1, 1993, but no longer in use on that date, the present owner of the underground storage tank or aboveground storage tank system and any person who owned such underground storage tank or aboveground storage tank system immediately
before the discontinuation of its use. For the purposes of this chapter, the person who registers the underground storage tank or aboveground storage tank is, and shall be considered the owner.

(v) "Person" means any natural person, any firm, association, partnership, corporation, trust, the state of Alabama, and any agency of the state of Alabama, governmental entity, a consortium, a joint venture, a commercial entity and any other legal entity.

(w) "Pipe" or "Piping" means a hollow cylinder or tubular conduit that is constructed of non-earthen materials.

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

(y) "Reasonable cost" means that monetary amount or range, as determined by the Department, which is commensurate with a response action, where the Department's determination is based on an evaluation of typical costs expected for the particular response action under review, with respect to the activities' scope and complexity.

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

(aa) "Residential tank" is a tank located on property used primarily for dwelling purposes.

(bb) "Response Action" means any activity, including evaluation, planning, design, engineering, construction, and ancillary service, which is carried out in response to any discharge, release, or threatened release of "motor fuels".

(cc) "Response Action Contractor" means a person who has been approved by the Department to carry out any response action, including a person retained or hired by such person to provide services relating to a response action.

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

(ee) "Storm-water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.
"Substantial Compliance" shall mean that an owner or operator of an underground or aboveground storage tank has registered that tank with the Department, has timely paid the annual fees, if any, has made a good faith effort to comply with the state and federal laws applicable to underground or aboveground storage tanks, and the rules and regulations adopted pursuant thereto, shall have met the financial responsibility requirements imposed by Code of Alabama 1975 Section 22-35-7 (1990 Replacement Vol.) and shall have promptly notified the Director of any third party claim or suit made against the owner or operator.

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

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

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

"Third Party Claim" means any civil action brought or asserted by any person against any owner or operator of any underground or aboveground storage tank who is in substantial compliance, as that term is defined above, for bodily injury or property damage which damages are the direct result of an accidental release arising from the operation of a motor fuel underground or aboveground storage tanks covered under this chapter.

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

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of motor fuels, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.

"Aboveground storage tank" or "AST" means any one or combination of stationary tanks affixed permanently to the ground or other support structure (including pipes connected thereto) used to contain an accumulation of motor fuels, the volume of which (including pipes connected thereto) is greater than 90 percent above the surface of the ground. The terms underground and aboveground storage tank do not include any of the following:

1. Farm or residential tank of 1,100 gallons or less capacity used for storing "motor fuel" for noncommercial purposes;
2. Tank used for storing heating oil for consumptive use on the premises where stored;

3. Septic tank;

4. Pipeline facility (including gathering lines) regulated under:
   (i) The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.), or
   (iii) State laws comparable to the provisions of law in subparagraph (i) or (ii) above:

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

6. Storm-water or wastewater collection system;

7. Flow-through process tank.

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

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

10. Other underground storage tanks exempted by the administrator of the federal Environmental Protection Agency; and

11. Piping connected to any of the above exemptions.

12. Pipeline terminals, refinery terminals, rail and barge terminals and tanks associated with each.

(nn) "AST system" or "Tank system" means an aboveground storage tank, connected piping, ancillary equipment, and containment system, if any.

(oo) "UST system" or "Tank system" means an underground storage tank, connected piping, ancillary equipment, and containment system, if any.

(pp) "Bulk facility" means a facility, including pipeline terminals, refinery terminals, motor fuel distribution terminals, rail and barge terminals, and associated tanks, connected or separate, from which motor fuels are withdrawn from bulk and delivered into a cargo tank used to transport these materials.
"Cargo tank" means an assembly that is used for transporting, hauling, or delivering liquids and that consists of a tank having one or more compartments mounted on a wagon, truck, trailer.

"Withdrawal from bulk" means the removal of a motor fuel or a combination of motor fuels from bulk facility storage tanks directly into a cargo tank to be transported to a location in this state. The underground and aboveground storage tank trust fund charge shall not be assessed on motor fuel "withdrawn from bulk" the ultimate destination of which is outside the state of Alabama. Withdrawal of different grades of motor fuel into separate compartments of a cargo tank does not constitute separate withdrawals from bulk. The underground and aboveground storage tank trust fund charge shall not be assessed on fuel oil "withdrawn from bulk" used in the generation of electricity.

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

"Waters" means all waters of any river, stream, water course, pond, lake, coastal, ground, or surface waters wholly or partially within the state, natural or artificial.

"Registration" means notification to the Department of the existence of a tank system which satisfies the requirements of ADEM Admin. Code rule 335-6-15-.05.

"Fuel Oil" means #1 or #2 diesel.

"Trust Fund Fee" means an annual fee to be charged for each underground storage tank containing a motor fuel.

"Trust Fund Charge" means a charge imposed on each gallon of motor fuel upon first withdrawal from bulk.

Author: Sonja Massey, and James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994; October 1, 2004.

335-6-16-.03 Applicability.

(1) The requirements of this chapter apply to all owners and operators of an UST or AST system as defined in 335-6-16-.02 except as otherwise provided for in paragraph 335-6-16-.03(3) of this rule.

(2) References in this chapter to response action and closure requirements of ADEM Admin. Code rs. 335-6-15-.20 through 335-6-15-.37 shall also be applicable to response actions taken for releases from aboveground storage tanks. Where, due to differences between aboveground
and underground storage tank systems, an owner and/or operator cannot comply with the provisions of chapter 15, rule 335-6-15-.20 through .37, the Department may waive those provisions of this chapter which are not applicable to aboveground storage tank systems.

(3) The following UST or AST systems are excluded from the requirements of this chapter:

(a) State and federal government entities whose debts and liabilities are debts and liabilities of a state or the United States are exempt from the requirements of this chapter.

(b) Any UST or AST system holding hazardous waste listed or identified under Division 14 of the ADEM Administrative Code, or a mixture of such hazardous wastes and motor fuels.

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

(d) Equipment or machinery that contains motor fuels for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

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

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

(4) Eligible owners or operators are entitled to reimbursement of reasonable costs and coverage for third party claims from the Tank Trust Fund resulting from the release of motor fuels from an UST only for releases that were discovered and subsequently reported after September 30, 1988. Eligible owners or operators are entitled to reimbursement of reasonable costs and coverage for third party claims from the Tank Trust Fund resulting from the release of motor fuels from an AST only for releases that were discovered and subsequently reported on or after August 1, 1993.

Author: Sonja Massey, James Stevens, and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994; October 2, 2003.
requirements of chapter 335-6-15 of the ADEM Administrative Code are satisfied, if any.

(c) The owner or operator remains in substantial compliance for each UST.

(d) Every owner or operator of an UST is required to maintain financial responsibility in the amount of $5000 per occurrence ($25,000 aggregate) or another amount if required by the Commission, by any one or combination of the following: insurance, guarantee, surety bond, letter of credit or qualification as a self-insurer by demonstration of a tangible net worth in the amount of $25,000.

(e) The owner or operator shall maintain the following records and submit or make them available to the Department upon request.

1. Evidence of current financial responsibility for $5,000 per occurrence ($25,000 aggregate) or other amount as may be required by the Commission; or

2. Evidence of current ability to self-insure by demonstrating net worth of $25,000; and

3. Any other records as may be required by the Department.

(f) All records identified in subparagraph (e) above shall be retained until one of the following is accomplished:

1. Closure requirements of chapter 335-6-15 of the ADEM Administrative Code are satisfied;

2. Ownership of an UST, is transferred to a new owner; or

3. Owner or operator is instructed otherwise by the Department.

Author: Sonja Massey, James Stevens, and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.

335-6-16-.05 Tank Trust Fund Eligibility Requirements for Aboveground Storage Tanks. Every owner or operator of an AST is required to establish and maintain Trust Fund eligibility in accordance with the following requirements:

(a) Registration of the tanks with the Department.

(b) The owner or operator remains in substantial compliance for each AST.
(c) The owner or operator must comply with ADEM Admin. Code rs. 335-6-6-.03 and 335-6-6-.12(r) and Code of Federal Regulations (CFR) Title 40 Part 112 (40 CFR 112).

(d) Every owner or operator of an AST is required to maintain financial responsibility in the amount of $10,000 per occurrence or another amount if required by the Commission, by any one or combination of the following: insurance, guarantee, surety bond, letter of credit or qualification as a self-insurer by demonstration of a tangible net worth in the amount of $25,000.

(e) The owner or operator shall maintain the following records and submit or make them available to the Department upon request.

1. Evidence of current financial responsibility for $10,000 per occurrence or other amount as may be required by the Commission; or

2. Evidence of current ability to self-insure by demonstrating net worth of $25,000; and

3. Any other records as may be required by the Department.

(f) All records identified in subparagraph (e) above shall be retained until one of the following is accomplished:

1. Closure requirements of chapter 335-6-15 of the ADEM Administrative Code are satisfied;

2. Ownership of an AST, is transferred to a new owner; or

3. Owner or operator is instructed otherwise by the Department.

Author: James Stevens.
History: June 1, 1994.

335-6-16-.06 Loss and Restoration of Tank Trust Fund Eligibility.

(1) If at the time of discovery of a release, the Department determines that an owner or operator has failed to establish Tank Trust Fund eligibility in accordance with rule 335-6-16-.04 or .05, response action costs and third party claims associated with that release are not eligible for coverage by the Tank Trust Fund.

(2) If at any time after the determination of eligibility for Tank Trust Fund coverage, the Department determines that an owner or operator has failed to maintain Tank Trust Fund eligibility, the Department will provide notice to the owner or operator of such failure to maintain eligibility. The owner or operator shall have thirty (30) days from receipt of such notice, or such other time period as the Department may allow, to provide evidence of compliance
335-6-16-.08

with all Tank Trust Fund eligibility requirements. If, after completion of this time period, the owner or operator fails to resolve the non-compliance, the Director shall issue a notice of Tank Trust Fund ineligibility and enforcement actions including penalty assessment may be initiated.

Author: Sonja Massey, James Stevens & Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.

335-6-16-.07 Trust Fund Fee and Charge.

(1) In order to participate in the liability limitations and reimbursement benefits of the Tank Trust Fund, an UST and/or AST owner or operator shall pay an annual Tank Trust Fund Fee, if any. The Commission may set annual fees the total of which shall not exceed $150 per regulated tank.

(2) Each year UST and/or AST owners or operators will be notified by the Department of the amount of the required Tank Trust Fund Fee, if any, which will be due within thirty (30) days of the invoice date. For underground storage tanks and/or aboveground storage tanks brought into service on or after October 1 of each year the Tank Trust Fund fee is due with the registration of the tank(s) with the Department.

(3) To protect the financial integrity of the fund, the Commission may make special assessments of Tank Trust Fund Fees. However, the total fee, if any, shall not exceed $150 per regulated tank per year. Special assessment fees will be due within thirty (30) days of the invoice date.

(4) The failure to pay Tank Trust Fund Fees, if any, within the time prescribed by the Department shall make the owner or operator of an UST and/or AST liable for a late charge penalty in an amount not to exceed $100 per tank for each day such payment is delinquent and will result in the loss of Trust Fund eligibility. The Director, for good cause shown, may abate all or part of said late charge penalty.

(5) The Trust Fund Fee is set at $0.00 per tank.

(6) The Trust Fund Charge is set at $0.01 per gallon.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994; October 1, 2004; January 1, 2010; January 16, 2012.

35-6-16-.08 Authorized ADEM Disbursements of Tank Trust Funds.
Whenever in the Director's determination a release of motor fuels may pose a threat to the environment or the public health, safety or welfare, and the owner or operator of the underground or aboveground storage tank has been found to be eligible for Tank Trust Fund coverage, the Department shall, subject to the provisions of this chapter, disburse monies available in the fund to provide for:

(a) Investigation, assessment and remediation of sites contaminated by a release of motor fuels in accordance with the requirements of chapter 335-6-15 of the ADEM Administrative Code which may consist of clean-up of affected soil and waters, using cost effective alternatives that are technologically feasible and reliable, and that provide adequate protection of the public health, safety and welfare and minimize environmental damage, in accordance with corrective action requirements of chapter 335-6-15 of the ADEM Administrative Code.

b) The interim replacement and permanent restoration of potable water supplies;

(2) Monies held in the Fund shall be disbursed for making payments to third parties who bring suit relative to an UST or AST release against the Director, in his official capacity as representative of the Fund, and the owner or operator of an UST or AST who is in substantial compliance as stated in this chapter, when such third party obtains a final judgment in that action which is enforceable in this State and the eligible owner or operator submits proof of payment of the first $5,000 in the case of a UST or in the case of a AST the eligible owner or operator submits proof of payment of the first $10,000.00.

(3) When, in an effort to determine the source of a release, an owner or operator is required by the Department or other emergency management agency to perform testing of tanks and associated piping or investigative actions, and the Department determines the source of the subject release to be other than the tanks or piping for which the testing or investigative actions were required, the Department shall, where the owner or operator has been found to be eligible for Tank Trust Fund coverage, and subject to the provisions of this chapter, disburse monies available in the Tank Trust Fund to provide for the cost of testing of tanks, piping and investigative actions, to the extent required by the Department.

Author: Sonja Massey, James Stevens and Gregory Stephens.  
History: June 1, 1989.  
Amended: June 1, 1994.

335-6-16-.09 Scope of Tank Trust Fund Coverage.

(1) The Tank Trust Fund will provide to eligible UST or AST owners or operators coverage for the reasonable cost of response actions and for compensation
of third parties for bodily injury and property damage resulting from accidental releases arising from the operation of an UST or AST which stores motor fuels.

(2) The financial responsibility requirements for eligible UST owners or operators will be $5000 for UST owners or operators per occurrence and $10,000.00 per occurrence for AST owners or operators for taking response actions and compensation of third parties, unless another amount is established by the Commission.

(3) The monies expended from the Tank Trust Fund to eligible UST owners or operators for response actions may be disbursed only up to such sum as will cause the Resource Conservation and Recovery Act, Subtitle I, the Superfund Amendments and Reauthorization Act of 1986, and other federal laws governing disbursements of federal funds for clean up and third party claims to come into effect.

(4) "Per Occurrence Indemnification Limit." The total amount of reimbursement available from the fund as a result of a release from underground or aboveground storage tanks shall not exceed under any circumstance the per occurrence indemnification limit established under this rule, which shall be determined by the commission upon recommendation of the trust fund management board, on an annual basis. In no event shall combined claims against the fund for payment of response actions and third-party claims exceed the per occurrence indemnification limit.

(a) If the per occurrence indemnification limit is increased, such increased limit shall be available for response actions costs and/or third party claims as to those existing sites that are eligible for trust fund benefits, but such increased limits shall not be available to existing sites where the department, as of the effective date of such increase, has issued a No Further Action Letter.

(b) Beginning October 1, 2015, the per occurrence indemnification limit is set at one million, five hundred thousand dollars ($1,500,000), less the applicable deductible.

(5) The indemnification limit of the Tank Trust Fund with respect to satisfaction of third party claims shall be in the following amounts:

(a) For owners and operators of motor fuels underground and aboveground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of motor fuels per month based on annual throughput for the previous calendar year; $1 million per occurrence,

(b) For all other owners and operators of motor fuels underground and aboveground storage tanks; $500,000 per occurrence;

(c) For owners and operators of 1 to 100 motor fuels underground and aboveground storage tanks, $1 million annual aggregate; and

(d) For owners and operators of more than 101 motor fuels underground and aboveground storage tanks, $2 million annual aggregate.
(6) The Tank Trust Fund will provide to eligible UST or AST owners or operators coverage for the reasonable cost of response actions required by the Department, where that owner or operator's UST or AST system was found not to be the source of the release which prompted the Department's requirement for the response action.

(7) The financial responsibility requirements for eligible UST or AST owners as described in paragraph (2) above of this Rule, shall upon approval by the Commission, be waived.

Author: Sonja Massey, James Stevens and Gregory Stephens.
Effective: June 1, 1989.
Amended: June 1, 1994; January 1, 2010; November 26, 2013, Operative Date: January 1, 2014, October 1, 2015.

335-6-16-.10 Requirements for Tank Trust Fund Coverage of Response Action Costs for UST and AST systems.

(1) An eligible owner or operator conducting response actions is entitled to coverage of reasonable costs from the Tank Trust Fund, subject to the following provisions:

(a) Upon confirmation and reporting of a release in accordance with the requirements of rules 335-6-15-.20 through 335-6-15-.23 of the ADEM Administrative Code the owner or operator shall select a contractor from the Department's list of approved contractors, or upon approval by the Department under the conditions identified in rule 335-6-16-.16(5) and (6), may use the owner or operator's personnel and/or equipment to accomplish all or part of an investigation and necessary corrective action. If a contractor is to be retained the Department must be notified in writing of such a selection within twenty (20) days of reporting of a release. A contractual agreement must be established between the owner or operator and the contractor, and the Department must be provided a copy of the contractual agreement. The owner or operator of an UST is responsible for the first $5,000 or the owner or operator of an AST is responsible for the first $10,000 of eligible response action costs, or other such amount as may be set by the Commission, as the owner's limit of individual responsibility.

(b) If initial release responses, abatement measures and initial free product removal, conducted in accordance with rules 335-6-15-.22 through 335-6-15-.25 and 335-6-15-.27 of the ADEM Administrative Code, are required to properly stabilize a site and prevent significant continuing damage to the environment or risk to human health, and the cost of such required measures is expected to exceed the individual limit of financial responsibility established by the Commission, the owner, or the approved response action contractor may
contact the Department to obtain verbal or written approval to allow additional expenditures prior to the submittal of a cost proposal. Additional expenditures may be authorized by the Department up to a total of $20,000 which may be reimbursable from the Tank Trust Fund to achieve site stabilization and immediate protection of human health or the environment. Such approval may be given following the actual expenditures if immediate actions were necessary to protect human health or the environment and Departmental personnel were unavailable. In such a case, the Department must be notified of the actions taken within twenty-four hours.

(c) Following completion of necessary site stabilization actions as described in subparagraph (b) of this rule, subsequent investigative and corrective actions must be performed by approved contractors, or by owners or operators approved by the Department to perform such actions, and in accordance with the requirements of rules 335-6-15-.25 through 335-6-15-.31 of the ADEM Administrative Code. The contractor selection, Departmental notification and contractual requirements as described in subparagraph (a) of this rule, relative to approved contractors, will be applicable.

(d) Prior to initiating any of the response actions identified in 1. through 6. below, unless otherwise directed by the Department, a cost proposal shall be submitted to the Department for conducting the proposed response action. Cost proposals shall be submitted in accordance with a format which shall be established by the Department.

1. Preliminary Investigation (in accordance with rules 335-6-15-.25 and 335-6-15-.26).

2. Risk Assessment in accordance with rule 335-6-15-.33.

3. Free Product Removal (in accordance with rule 335-6-15-.27).

4. Secondary Investigation and Development of Corrective Action Plan (in accordance with rules 335-6-15-.28 through 335-6-15-.31).

5. Implementation of Corrective Action Plan. This shall include the costs of: finalizing equipment design; purchase of equipment and materials to be dedicated to the site for corrective action; installation and bringing to operational status the corrective action system; operation and maintenance costs of corrective action system for the total projected time period in which the corrective action system will be needed to comply with corrective action limits of chapter 335-6-15 of the ADEM Administrative Code.

6. Provision of alternate water supply.

(e) Upon review of a cost proposal for any of the activities identified in (d) 1. through 6. above, the Department may:

1. Approve the cost proposal and authorize work to be initiated; or
2. Require a modification to or clarification of the cost proposal if projected costs are not determined to be reasonable.

(f) In addition to the above requirements of (c), (d) and (e) of this rule, the owner or operator shall upon submittal of a cost proposal for a site investigation, also submit an estimate of the total cost of remediation for the site which shall be used solely for the purpose of the Commission, the Department, and the Advisory Board in projecting future funding requirements for the Tank Trust Fund. The total estimated cost of remediation for a site shall be updated by the owner or operator as necessary and as more complete information regarding a site becomes available.

(g) Upon approval of a cost proposal by the Department, sufficient funds will be obligated from the Tank Trust Fund for completion of the particular phase of work for which the cost proposal was submitted and authorization will be provided for the initiation of the proposed action. Obligation of funds shall be subject to the availability of funds at the time of acceptance of the cost proposal.

(h) Response actions performed prior to approval of an associated cost proposal may not be eligible for reimbursement.

(i) If the costs of completing any of the response actions of subparagraph (d) 1. through 6. is expected to exceed the amount of an approved cost proposal, an amended cost proposal must be submitted and approved to allow additional funds to be obligated.

(j) Any response action which is carried out in response to any discharge, release or threatened release of motor fuels from an UST or AST must be conducted in accordance with the requirements of rules 335-6-15-.21 through 335-6-15-.31 and subparagraphs (a) through (d) of this rule.

(k) The owner or operator shall keep and preserve detailed records demonstrating compliance with approved investigative and corrective action plans and all invoices and financial records associated with costs for which reimbursement will be requested. These records shall be kept for at least three years, or as otherwise instructed by the Department, after corrective action has been completed for a site.

(l) The selected investigative and/or corrective action alternative must be implemented in a manner acceptable to the Department in order for the owner or operator to be eligible for the reimbursement of costs associated with those activities.

(m) An eligible owner or operator conducting AST response actions from August 1, 1993 until June 1, 1994 relative to any discharge, release or threatened release of motor fuels from an AST, is entitled to reimbursement of reasonable costs from the Tank Trust Fund if the release was discovered and subsequently reported August 1, 1993 or after, and is exempted from the
requirements of subparagraphs (a) through (h) above, provided that response actions were carried out in a manner acceptable to the Department.

(n) If response actions which were initiated during the time period referenced in subparagraph (m) above are still continuing upon the effective date of these regulations, the Department will require submittal of cost proposals for any remaining phases of work and for the total projected cost of the remediation.

(o) If the contractor performing response actions as described in subparagraph (n) above is not an approved contractor, the Department may authorize the continued use of that contractor.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994; October 2, 2003.

335-6-16-.11 Requirements for Tank Trust Fund Coverage of Third Party Claims. An eligible owner or operator is entitled to Tank Trust Fund coverage for third party claims resulting from the release of motor fuels from an UST or AST, subject to the following provisions:

(a) The Department was notified by the owner or operator within thirty (30) days of receipt of notice of the third party liability suit.

(b) The owner or operator was in substantial compliance at the time a release is discovered and at the time the third party suit is filed.

(c) The third party liability suit must name the Director, in his official capacity as representative of the fund, and the owner or operator.

(d) The third party obtains a final judgment enforceable in Alabama.

(e) The eligible UST owner or operator submits proof of payment of the first $5,000 of a final judgment or in the case of an eligible AST owner or operator the first $10,000.00 of a final judgment or such other amount as may be established by the Commission.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.

335-6-16-.12 Tank Trust Fund Obligations.

(1) Contingent upon availability of funds the Department will make obligations from the Tank Trust Fund when:
(a) A cost proposal for response actions, submitted in accordance with rule 335-6-16-.10, is approved by the Department.

(b) A judgment for a third party claim is submitted for payment in accordance with rule 335-6-16-.08 and 335-6-16-.11.

(c) A payment application in accordance with rule 335-6-16-.14 is received for:

1. Response actions work performed from August 1, 1993 until June 1, 1994 for an AST, is subject to a determination of reasonable costs by the Department.

2. Investigative or corrective actions under the terms of rule 335-6-16-.10(b).

(2) If the unobligated balance of the Tank Trust Fund is less than the total amount associated with payment applications, cost proposals and third party judgments which have been approved by the Department, to the extent allowed by available funds, funds will be obligated in the chronological order in which the claims were submitted.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.

335-6-16-.13 Tank Trust Fund Ineligible Costs.

(1) Costs of replacement, installation, closure and/or retrofitting of affected tanks and associated piping or testing of such tanks and associated piping which is not connected in direct association with a suspected or confirmed release, shall not be eligible for payment or re-imbursement by the Tank Trust Fund. Additionally, any equipment or labor or installation costs not integral to site rehabilitation or provision of an alternate water supply are not eligible for re-imbursement from the Tank Trust Fund.

(2) The cost of equipment purchases other than routinely required supplies which are expended at a given site or equipment which must be installed at a site to implement a corrective action plan, shall not be charged to the cost of rehabilitating any given site at which Tank Trust Funds are being claimed for investigative or corrective action costs. Examples of equipment which could not be charged to a specific site would include: drilling rigs, earth moving equipment, groundwater sampling pumps, and photoionization detectors. Examples of equipment which could be charged to a specific site would include: bailers, sample containers, etc. Hourly charges for equipment may be established in the cost proposal submitted for each major phase of work. These hourly rates must be competitive with similar charges by other
approved contractors, or they may be rejected by the Department if they are determined to represent unreasonable costs.

(3) The costs associated with environmental audits and property transfer audits are not eligible for reimbursement from the Tank Trust Fund.

(4) The first $5000 in the case of an UST or $10,000.00 in the case of an AST of approved response action costs, or such other amount as may be approved by the Commission, which are incurred by the owner or operator are not eligible for reimbursement from the Tank Trust Fund. Proof of payment of the first $5000 for UST or $10,000.00 for AST or another amount as may be approved by the Commission, is required prior to reimbursement of any costs.

(5) The first $5000 in the case of an UST or $10,000.00 in the case of an AST of a final judgment obtained by qualified third parties are not eligible for disbursement from the Tank Trust Fund. Proof of payment by the eligible UST or AST owner or operator of the said first $5,000 in the case of an UST or $10,000.00 in the case of an AST of a final judgment is required prior to disbursement of fund monies.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.

335-6-16-.14 Applications for Payment.

(1) Applications for reimbursement for costs of response actions shall be submitted on a form established by the Department which shall include an itemization of all charges according to labor hours and rates, analytical charges, equipment charges, and other categories which may be identified by the Department, or which the applicant may wish to provide. Documentation of charges must be submitted as part of the application, as required by the Department.

(2) The application shall contain the following statement which shall be signed by the owner or operator and the project manager of the contracting firm responsible for performance of response actions where applicable:

I certify to the best of my knowledge and belief: that the costs presented herein represent actual costs incurred in the performance of response actions related to this site during the period of time indicated on this application; and that no charges are presented as part of this application that did not result from the performance of response actions which were necessary due to the release of motor fuels at this site.

(3) The application shall contain the following statement which shall be signed by the owner or operator:
I certify that an unintentional release has occurred from a motor fuel underground storage tank system or aboveground storage tank system at the site.

(4) Applications for payments may be submitted following acceptance by the Department of completed response actions. Such response actions may include but are not limited to the following:

(a) Completion of site stabilization activities which were authorized by the Department.

(b) Completion and submittal of a report for a Preliminary Investigation.

(c) Implementation of a Free Product Removal System.

(d) Completion and submittal of a report for a Secondary Investigation and Development of a Corrective Action Plan.

(e) Implementation of a Corrective Action Plan.

(f) Provision of an alternate water supply.

(g) Completion and submittal of Risk Assessment.

(5) Applications for payments for the implementation of corrective action may be submitted ninety (90) days following initiation of work to implement the corrective action plan and at ninety (90) day intervals thereafter until completion of the authorized activities. Upon request, the Department may approve interim payments at more frequent intervals.

(6) All payments shall be subject to approval by the Department. Should a site inspection or other information available to the Department reveal a discrepancy between the work performed and the work addressed by a payment application, the Department may deny payment or may require the Tank Trust Fund to be reimbursed.

(7) An application for payment must be received within one year from the date of the approval of the associated cost proposal in order to be eligible for payments from the Tank Trust Fund.

(8) Except as provided for in rules 335-6-16-.12(c)(1), payments shall not be made for response actions performed at a site until the Department has reviewed and approved a cost proposal for that work and until funds have been obligated from the Tank Trust Fund for completion of that particular stage of work.

(9) For payment of third party claims the UST or AST owner or operator must submit an application to the Department attaching the original or a certified copy of a final judgment, enforceable in this state with proof of
payment of the first $5000 for a UST or $10,000.00 for a AST, as the case may be no later than thirty (30) days after notification of judgment.

(10) Payments for response actions, the cost of which exceed the scope or amount of the approved cost proposal for that action, are subject to approval by the Department.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.

335-6-16-.15 Tank Trust Fund Payment Procedures.

(1) Where the owner or operator has submitted a complete application for payment for response action costs or third party claims but has not paid for these activities or claims, payments will be made by a check written to the Tank Trust Fund Response action contractor who provided the response action services or the third party.

(2) Payments from the Tank Trust Fund will be made directly to the eligible owner or operator in cases where the owner or operator submits documentation verifying the owner or operator has paid for response actions.

(3) Where the owner or operator has submitted a complete application for payment for response action costs conducted in accordance with rule 335-6-16-.08(3), but has not paid for these activities or claims, payment will be made by a check written to the Tank Trust Fund response action contractor who provided the investigative response action service. The tank testing method used must be a method which the Department has determined as meeting the release detection requirements of rule 335-6-15-.17.

(4) Contingent upon availability of funds the Department shall process all complete applications for payment within sixty (60) days of receipt of application. If certain costs are considered as not being reasonable or eligible for reimbursement, the Department may issue a check for the amount of the application not in question and provide a fifteen (15) day period in which the owner or operator or contractor may present such information as is necessary to justify the disallowed costs. Following review of such information, the Department may agree to pay the previously disallowed costs, or any portion thereof, or may again disallow the costs for payment.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.

335-6-16-.16 Approval of Response Action Contractors.
(1) Response action contractors will be approved to perform Tank Trust Fund work upon satisfaction of the following:

(a) Response action contractors who wish to perform work under the Tank Trust Fund must demonstrate to the satisfaction of the Department through the submittal of a technical proposal that they have hydrogeological and engineering staff with significant experience in performing investigative and corrective actions for soil and groundwater contamination and knowledge of technical considerations necessary to perform petroleum contamination assessments. The response action contractor must provide services (that include, but are not limited to) tank tightness testing, analytical and emergency response capabilities. The Department shall establish guidance for the preparation of a technical proposal that identifies the information required to be submitted with the technical proposal. The Department will approve those response action contractors that demonstrate the capabilities and expertise, as stated above, to perform Tank Trust Fund response actions. Response action contractors must maintain staff, as stated above, to continue to perform Tank Trust Fund response actions.

(b) The contractor shall maintain liability insurance coverage of the types and in the amounts described in the table below and shall provide certification to the Department of such coverage upon meeting the requirements of (a) above of this rule, and yearly thereafter.

<table>
<thead>
<tr>
<th>Type of Policy</th>
<th>Limits of Liability</th>
<th>Description</th>
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<td>All states</td>
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<td>Employer’s Liability</td>
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<td>single limit (bodily</td>
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<td></td>
<td>injury and property</td>
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<td>damages)</td>
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<tr>
<td>General Liability</td>
<td>$1,000,000 combined</td>
<td>Broad Form Comprehensive</td>
</tr>
<tr>
<td></td>
<td>single limit General</td>
<td>General Liability</td>
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<td></td>
<td>Liability</td>
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<tr>
<td>Umbrella Excess Liability</td>
<td>$3,000,000</td>
<td>This policy is in excess if the underlying General Liability, Worker’s Compensation, and Automobile Liability policies.</td>
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</tbody>
</table>

(2) The Department will provide notice that technical proposals are to be requested by publication of a legal advertisement which will provide interested firms with the information necessary to request instructions for preparation and submittal of technical proposals. Technical proposals shall be independently evaluated by members of a review committee consisting of Department staff members according to the criteria of subparagraph (1)(a) of this rule. Contractors satisfactorily meeting the requirements of (1)(a) and (b) above shall be placed on the Department’s list of approved response action contractors. This process shall be repeated at yearly intervals to provide
interested firms with the opportunity to submit technical proposals for evaluation. Contractors which have previously been approved will not be required to requalify except under the provisions of paragraph (3) below. Contractors which previously submitted technical proposals but did not meet the requirements of subparagraph (1)(a) of this rule may submit a subsequent proposal for review at the time of the Department’s next yearly request for proposals.

(3) Response action contractors that fail to satisfactorily maintain the requirements of (a) and (b) above, will not be authorized to perform response action work for the Tank Trust Fund until such time a demonstration is made that satisfies the requirements of 1 (a and b) of this rule. A contractor may lose authorization to perform work for the Tank Trust Fund if, due to the quality or timeliness of work performed by such contractor, progress in achieving appropriate investigative and/or corrective actions at Tank Trust Fund sites has been significantly delayed or inhibited. Information as to why such a contractor should be allowed to again perform work for the Tank Trust Fund may be submitted for evaluation after twelve (12) months. A satisfactory evaluation by the Department will enable the contractor to again perform work for the Tank Trust Fund.

(4) The approval of a response action contractor shall in no way establish liability or responsibility on the part of the Department or the State of Alabama in regards to the services provided by the contractor or circumstances which may occur as a result of such services.

(5) The Department may approve the use of an owner or operator’s personnel and equipment for use in performing any or all response actions necessary for the remediation of a site upon satisfaction of the following:

(a) Within 10 days of reporting of a release, or such other time as the Department may allow, the owner or operator shall make a demonstration to the satisfaction of the Department with respect to the capability of the owner or operator’s personnel to perform the work in a manner which shall comply with rules 335-6-15-.21 through 335-6-15-.31 and 335-6-16-.10, with particular consideration being given to the background and experience of the personnel who will perform the work and their knowledge of the technical considerations necessary to perform the response actions for which approval for their use is being requested; and

(b) An owner or operator who performs any or all of the necessary response actions at a site is required to comply with the provisions of rules 335-6-15-.21 through 335-6-15-.31, and 335-6-16-.10.

(c) An owner or operator must satisfy the liability insurance coverage requirements of rule 335-6-16-.16(1)(b).

(6) If the Department determines that an owner or operator that is performing response actions is not performing such actions in compliance with rules 335-6-15-.21 through 335-6-15-.31 and 335-6-16-.10, the Department
may require the owner or operator to obtain the services of an approved response action contractor. Any work performed by an owner or operator that is not in compliance with the above referenced rules may not be eligible for reimbursement.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994, October 2, 2003.

335-6-16-.17 Insufficient Funds.

(1) Nothing in these regulations shall establish liability or responsibility on the part of the Department or State of Alabama to pay any response action costs or third party judgments from any other source than the Tank Trust Fund, nor shall the Department or State of Alabama have any liability or responsibility to make any payments for response action costs or third party judgments if the Tank Trust Fund is insufficient to do so. Further, the Department or State of Alabama shall have no liability or responsibility if the owner or operator defaults in payment for response actions or third party judgments.

(2) In the event the Tank Trust Fund is insufficient to make full payments for eligible UST or AST owners or operators taking investigative or corrective actions or for satisfaction of third party judgments, at the time the claim is filed, such claims shall be paid in accordance with the provisions described in rule 335-6-16A.12(2).

(3) The owner of an UST or AST retains responsibility for any liability that cannot be satisfied by the provisions of this chapter.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.

335-6-16-.18 Cost Recovery Allowed. Whenever funds from the Tank Trust Fund have been expended by the Department for taking response action with respect to the release of motor fuels from an underground storage tank or aboveground storage tank, the owner or operator of the underground storage tank or aboveground storage tank shall be liable to the Department for such costs if the owner or operator were not eligible for Tank Trust Fund coverage on the date of discovery of the release of motor fuels which necessitates the response action or such owner or operator fails to maintain substantial compliance thereafter; otherwise, liability is limited to the provisions contained in rule 335-6-16-.09(2).
335-6-16-.19 Adjustment of Limit of Owner or Operator’s Financial Responsibility. The Commission may adjust the owners or operator’s limits of financial responsibility for response actions and third party damages. Prior to the Commission taking any action to adjust the owner or operator’s limit of financial responsibility, the Trust Fund Advisory Board will provide a recommendation to the Commission regarding such proposed action. The Commission shall take into consideration the recommendation of the Advisory Board in making the final determination.

Author: Sonja Massey and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.

335-6-16-.20 Severability. If any paragraph, subparagraph, provision, clause or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, The remainder of this chapter shall not be affected thereby.

Author: Sonja Massey, James Stevens and Gregory Stephens.
History: June 1, 1989.
Amended: June 1, 1994.