

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
**WATER DIVISION - WATER QUALITY PROGRAM**  
**VOLUME II**  
**DIVISION 335 - 6**

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**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
WATER DIVISION - WATER QUALITY PROGRAM**

**VOLUME II, CHAPTERS 335-6-15 AND 335-6-16**

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**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
WATER DIVISION - WATER QUALITY PROGRAM**

**CHAPTER 335-6-15  
TECHNICAL STANDARDS, CORRECTIVE ACTION REQUIREMENTS AND  
FINANCIAL RESPONSIBILITY FOR OWNERS AND OPERATORS OF  
UNDERGROUND STORAGE TANKS**

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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.

(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 the National Association of Corrosion Engineers 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.

(p) "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.

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

(r) "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).

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

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

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

(v) "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.

(w) "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.

(x) "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.

(y) "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.

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

(aa) "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.

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

(cc) "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.

(dd) "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.

(ee) "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.

(ff) "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.

(gg) "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.

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

(ii) "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.

(jj) "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.

(kk) "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."]

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

(mm) "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.

(nn) "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.

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

(pp) "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.

(qq) "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.

(rr) "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.

(ss) "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.

(tt) "Pipe" or "Piping" means a hollow cylinder or tubular conduit that is constructed of non-earthen materials that routinely contains and conveys regulated substances from the underground 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.

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

(vv) "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.

(ww) "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.

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

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

(zz) "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.

(aaa) "Repair" means to restore a tank or UST system component that has caused a release of product from the UST system.

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

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

(ddd) "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.

(eee) "Significant noncompliance requiring delivery prohibition" means a failure of an owner or operator to comply with any of the following requirements of this chapter that will result in the Department prohibiting delivery of regulated substances to an underground storage tank facility, after being given notice: installation of spill prevention, overflow prevention, leak detection, or corrosion protection equipment on an underground storage tank system as required by 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.

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

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

2. Operation and/or maintenance of spill prevention, overflow prevention, leak detection, or corrosion protection equipment on an underground storage tank system as required by 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. Failure to submit documentation or reports relating to spill prevention, overflow 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. Take 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.

(ggg) "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.

(hhh) "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.

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

(jjj) "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.

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

(lll) "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
  - (ii) The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, 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.

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

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

(ooo) "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.

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

(qqq) "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.

(rrr) 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.

(sss) 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.

(ttt) 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.

(uuu) 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.

(vvv) 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.

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

**History** April 5, 1989.

**Amended:** October 2, 2003; August 6, 2007; April 25, 2008.

### **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.

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

**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(ooo) 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.

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

**History:** April 5, 1989.

**Amended:** October 2, 2003; August 6, 2007; April 25, 2008.

**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) Notices for tanks installed after April 5, 1989 must also provide all of the information required in rule 335-6-15-.06(f) for each tank for which notice must be given.

(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);
- (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 methods used to install the tanks and piping complies 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.

**Author:** Sonja Massey.

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

**History:** April 5, 1989.

**Amended:** October 2, 2003; August 6, 2007; April 25, 2008.

**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 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 underground that routinely contains product 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)2.(i), (ii), (iii), (iv), and (v), installed on August 6, 2007 and thereafter must be manufactured so that piping in contact with the ground 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 piping that routinely contains regulated substances and 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:

































































































**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
WATER DIVISION-WATER QUALITY CONTROL**

**CHAPTER 335-6-16  
ADMINISTRATIVE GUIDELINES AND PROCEDURES FOR  
THE ALABAMA UNDERGROUND AND ABOVEGROUND STORAGE TANK  
(TANK TRUST FUND) TRUST FUND**

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**335-6-16-.01 Purpose.** 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).

**Author:** Sonja Massey, James Stevens and Gregory Stephens.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-1 et seq.

**History:** June 1, 1989.

**Amended:** June 1, 1994.

**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.

(ff) "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.

(gg) "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.

(hh) "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.

(ii) "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.

(jj) "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.

(kk) "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.

(ll) "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.

(mm) "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

(ii) The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, 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.

(qq) "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.

(rr) "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.

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

(tt) "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.

(uu) "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.

(vv) "Fuel Oil" means #1 or #2 diesel.

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

(xx) "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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-3.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-1 et seq.

**History:** June 1, 1989.

**Amended:** June 1, 1994; October 2, 2003.

**335-6-16-.04 Tank Trust Fund Eligibility Requirements for Underground Storage Tanks.** Every owner or operator of an UST is required to establish and maintain Trust Fund eligibility in accordance with the following requirements:

(a) Registration of the tank(s) with the Department.

(b) Annual payment of Tank Trust Fund and Underground Storage Tank Regulatory Fees for each UST until such time as permanent closure 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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-5, 22-35-7.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-5, 22-35-7.

**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 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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-5.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-5.

**History:** June 1, 1989.

**Amended:** June 1, 1994; October 1, 2004.

**35-6-16-.08 Authorized ADEM Disbursements of Tank Trust Funds.**

(1) 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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-4, 22-35-5, 22-35-9.

**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/or third party claims to come into effect. Monies expended from the Tank Trust Fund to eligible AST owners or operators as a result of a release from an aboveground tanks shall not exceed one million dollars (1,000,000.00) less the applicable deductible.

(4) 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.

(5) 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.

(6) 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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-4, 22-35-5, 22-35-7.

**Effective:** June 1, 1989.

**Amended:** June 1, 1994.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-4, 22-35-5.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-5.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-4, 22-35-5.

**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-imburement 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-imburement 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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-4, 22-35-7.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-5.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-5, 22-35-8.

**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.

<b>Type of Policy</b>	<b>Limits of Liability</b>	<b>Description</b>
Worker's Compensation	Statutory	All states
Employer's Liability	\$500,000	
Automobile Liability	\$1,000,000 combined single limit (bodily injury and property damages)	All owned, non-owned, and hired vehicles
General Liability	\$1,000,000 combined single limit General Liability	Broad Form Comprehensive General Liability
Umbrella Excess Liability	\$3,000,000	This policy is in excess if the underlying General Liability, Worker's Compensation, and Automobile Liability policies.

(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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-3.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-5, 22-35-13.

**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).

**Author:** Sonja Massey, James Stevens and Gregory Stephens.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-4.

**History:** June 1, 1989.

**Amended:** June 1, 1994.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-11.

**History:** June 1, 1989.

**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.

**Statutory Authority:** Code of Alabama 1975, §§ 22-35-11.

**History:** June 1, 1989.

**Amended:** June 1, 1994.