

APA-2
11/96

**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WATER DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE: 335-6-16-.09 Scope of Tank Trust Fund Coverage (Amend)


INTENDED ACTION: The Alabama Department of Environmental Management proposes to amend Chapter 335-6-16.

SUBSTANCE OR PROPOSED ACTION: Revisions to the Division 6 Code are being proposed to implement changes to the Trust Fund scope of coverage recommended by the Alabama Underground and Aboveground Storage Tank Trust Fund Management Board in accordance with the Alabama Underground and Aboveground Storage Tank Trust Fund Act.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held September 11, 2013, at 1:00 p.m. at the offices of the Alabama Department of Environmental Management, 1400 Coliseum Blvd, Montgomery, AL 36109, for the purpose of receiving written and oral comments. Written comments also may be submitted if received at the offices of the Alabama Department of Environmental Management in Montgomery before 5:00 p.m. on September 11, 2013, the closing date of the comment period.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: September 11, 2013 at 5:00 p.m.

CONTACT PERSON AT AGENCY: Sonja Massey, Chief, Groundwater Branch [334/271-7832]



Lance R. LeFleur
Director

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.

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

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

(b) Beginning January 1, 2010~~4~~, the per occurrence indemnification limit is set at one million, ~~one~~three hundred thousand dollars (\$1,~~1~~300,000), less the applicable deductible.

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

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

(b) For all other owners and operators of motor fuels underground and aboveground storage tanks; \$500,000 per occurrence;

(c) For owners and operators of 1 to 100 motor fuels underground and aboveground storage tanks, \$1 million annual aggregate; and

(d) For owners and operators of more than 101 motor fuels underground and aboveground storage tanks, \$2 million annual aggregate.

(6) The Tank Trust Fund will provide to eligible UST or AST owners or operators coverage for the reasonable cost of response actions required by the Department, where that owner or operator's UST or AST system was found not to be the source of the release which prompted the Department's requirement for the response action.

(7) The financial responsibility requirements for eligible UST or AST owners as described in paragraph (2) above of this Rule, shall upon approval by the Commission, be waived.

Author: Sonja Massey, James Stevens and Gregory Stephens.

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

Effective: June 1, 1989.

Amended: June 1, 1994; January 1, 2010-~~XXXXXX~~, 2014.