

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-6-15-.45
Rule Title: Delivery Prohibition

 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? YES

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO


If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Manly Elliott

Date September 20, 2011

Date Filed 

APA-2
11/96

**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
WATER DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:	335-6-15-.02	<u>Definitions</u> (Amend)
	335-6-15-.04	<u>Interim Prohibition for Deferred UST Systems</u> (Amend)
	335-6-15-.05	<u>Notification Requirements</u> (Amend)
	335-6-15-.06	<u>Performance Standard for New USTs, Piping, UST Systems, and/or Dispensers</u> (Amend)
	335-6-15-.07	<u>Upgrading of Existing UST Systems</u> (Amend)
	335-6-15-.09	<u>Operation and Maintenance of Spill and Overflow Control, and Containment Systems</u> (Amend)
	335-6-15-.10	<u>Operation and Maintenance of Corrosion Protection</u> (Amend)
	335-6-15-.12	<u>Repairs Allowed</u> (Amend)
	335-6-15-.13	<u>Reporting and Recordkeeping</u> (Amend)
	335-6-15-.15	<u>Release Detection Requirements for Petroleum UST Systems</u> (Amend)
	335-6-15-.17	<u>Method of Release Detection for Tanks</u> (Amend)
	335-6-15-.20	<u>Reporting of Suspected Releases</u> (Amend)
	335-6-15-.34	<u>Permanent Closure and Changes-in-Service</u> (Amend)
	335-6-15-.45	<u>Delivery Prohibition</u> (Amend)
	335-6-15-.46	<u>Operator Training</u> (Amend)
	335-6-15-.47	<u>Certification Requirements for Individuals Who Supervise Installation, Closure, and Repair of UST Systems</u> (New)
	335-6-15-.48	<u>Severability</u> (Amend)

INTENDED ACTION: The Alabama Department of Environmental Management proposes to amend Chapter 335-6-15.

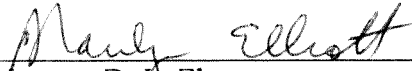
SUBSTANCE OR PROPOSED ACTION: Revisions to the Division 6 Code are being proposed to provide updated regulations to add the requirement for individuals who supervise underground storage tank system installation, closure and repair to be trained, certified and recertified, as well as addressing other necessary revisions and updates.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held at 10:00 a.m., November 4, 2011, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: November 4, 2011

CONTACT PERSON AT AGENCY: Sonja Massey (334) 271-7832

A handwritten signature in cursive script, appearing to read "Lance R. DeFleur", is written over a horizontal line.

Lance R. DeFleur
Director

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

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

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

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

(b) If the above time period expires without resolution of the significant noncompliance, the underground storage tank facility will be prohibited from regulated substance delivery by placing it on the Department web site "delivery prohibition list" as described in subparagraph (d) below. The Department may also physically affix a red tag on the fill pipes to all underground storage tanks at the underground storage tank facility prohibited from regulated substance delivery at any time during the delivery prohibition period. Once the red tag is affixed on the fill pipe, it shall be unlawful to tamper with or remove it until authorized by the Department.

(c) Upon implementation of delivery prohibition as described in subparagraph (b) above, it shall be unlawful for any regulated substance deliverer to deliver a regulated substance, and it shall be unlawful for owners and operators of UST systems to accept delivery of a regulated substance to an underground storage tank facility that is under delivery prohibition.

(d) An underground storage tank facility will be added to the Department web site "delivery prohibition list" by 12:00 a.m. central time on Wednesday of the week that a delivery prohibition determination is made by the Department. The delivery prohibition becomes effective at 12:00 a.m. Wednesday.

(e) When the Department has received all documentation required by the Department to demonstrate that the underground storage tank facility has returned to compliance:

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

2. The Department shall remove the underground storage tank facility from the Department web site "delivery prohibition list" and add it to the

~~"delivery prohibition removed list" as soon as practicable after receipt of the necessary documentation. The underground storage tank facility will remain on the "delivery prohibition removed list" for a period of approximately one month.~~

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

Author: Sonja Massey.

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

History: April 25, 2008.

Amended: November 24, 2009; XXXXX, 2012.