

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management  
Rule No. 335-13-16-.02  
Rule Title: Definitions

         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 action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule?         NO        

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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.

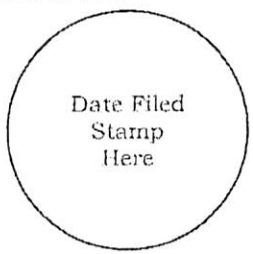
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Certification of Authorized Official

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 Services Agency.

Signature of certifying officer         *Marilyn Elliott*        

Date January 20, 2022

REC'D & FILED  
JAN 20 2022



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
LAND DIVISION

NOTICE OF INTENDED ACTION

**AGENCY NAME:** Alabama Department of Environmental Management

**RULE NO. & TITLE:**

335-13-16-.02	Definitions (Amend)
335-13-16-.03	Specific Requirements for Land Application of By-Product Materials (Amend)
335-13-16-.04	Registration Application Requirements (Amend)
335-13-16-.05	Operating Criteria for Storage, Staging and Land Application of By-Product Materials (Amend)
335-13-16-.06	Operating Criteria for Mine-Land Recovery (Amend)
335-13-16-.07	Operating Criteria for Food Processing Residuals (Amend)
335-13-16-.08	Operating Criteria for Food Processing Residuals Treatment Impoundments (New)
335-13-16-.09	Recordkeeping and Reporting Requirements (New)
335-13-16-.10	Variances (New)
335-13-16-Appendix I	Constituent Concentration Limits (New)

**INTENDED ACTION:** The Alabama Department of Environmental Management proposes to amend rule 335-13-16-.02, 335-13-16-.03, 335-13-16-.04, 335-13-16-.05, 335-13-16-.06, 335-13-16-.07, 335-13-16-.08, 335-13-16-.09, 335-13-16-.10, and 335-13-16-Appendix I

**SUBSTANCE OR PROPOSED ACTION:**

Revisions to the ADEM Administrative Code Chapter 335-13-16 are being proposed to amend existing regulations for the beneficial use of by-product materials for the purpose of land application. In addition, new standards and procedures for the operating criteria for Food Processing Residuals (FPR) and FPR Treatment Impoundments are being added.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:**

Comments may be submitted in writing or orally at a public hearing to be held at 9:30 a.m., March 17, 2022, in the ADEM Main Hearing Room, 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:** March 17, 2022 at 5:00 PM

**CONTACT PERSON AT AGENCY:** Lynn T. Roper, (334) 271-7728

  
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Lance R. LeFleur  
Director

**335-13-16-.02 Definitions.** For the purpose of this chapter, the following terms have the meaning given below:

(1) "Agronomic Rate" means the land application of by-products at rates of application which provide the crop or forage growth with needed nutrients for optimum health and growth in accordance with acceptable industry technical standards and guidelines to ensure the protection of human health and the environment.

~~(2) "Applicator or End User" means the person, organization, or business that will utilize a by-product material in a manner consistent with these regulations.~~

~~(3)~~(2) "Beneficial Use" means the use of a by-product material as a soil amendment or fertilizer, where the by-product material replaces a natural or other resource material by its utilization.

(3) "Biosolids" are a solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment works. During this treatment process the domestic sewage is treated physically and chemically to produce this nutrient-rich product.

(4) "By-Product" means a material that is generated as a result of water or wastewater treatment or residual materials from industrial or manufacturing processes that, barring any form of alternate or beneficial use of that material, would otherwise be discarded at a landfill or other solid waste disposal facility.

(5) "Class A Biosolids" is a designation ~~for dewatered and heated sewage sludge that meets U.S. EPA guidelines pursuant to 40 C.F.R. § 503.32 for land application with no restrictions.~~

(6) "Class B Biosolids" is a designation for biosolids that meets U.S. EPA guidelines, pursuant to 40 C.F.R. § 503.32, for land application, but does not meet the requirements for Class A Biosolids.

~~(6)~~(7) "Distributor or Supplier" means the person, organization, ~~or business, industry, agency, or institution who utilizes and/or provides or resells by-product material for beneficial use to an applicator or end user.~~

(8) "Dry Short Ton" means 2,000 pounds (lbs) of material with 0% moisture content.

(9) "Feed Crops" means crops produced primarily for consumption by animals.

(10) "Fiber Crops" means crops such as flax and cotton.

(11) "Food Crops" means crops consumed by humans. These include, but not limited to, fruits, vegetables, and tobacco.

(12) "Food Processing Residuals" or "FPR" means by-product that is generated from food processing facilities and may include other materials with pathogen potential.

(13) “FPR Treatment” means the usage of biological, physical, chemical, and/or mechanical processes along with retention time to characteristically change FPR into Treated FPR Material.

(14) “FPR Treatment Facility” means the person, organization, business, industry, agency or institution that operates FPR treatment impoundments.

(15) “FPR Treatment Impoundment” is a surface feature certified in accordance with ADEM Admin. Code r. 335-13-16-.08(54) capable of containing FPR materials for the storage and treatment of FPR.

~~(7)~~ (16) “Generator” means the person, organization, business, industry, agency or institution whose activities or business results in the initial generation of a by-product material to be used for beneficial use.

(17) “Mine-Land Recovery” means the use of biosolids at mine spoil areas which have been released from regulatory control by the Alabama Surface Mining Commission or the Alabama Department of Labor, as appropriate, in an effort to rehabilitate otherwise unusable land.

(18) “Multi-Owner Property” means contiguous parcels of land, which are owned by two (2) or more different individuals, and operated as a single farm.

(19) “Property Boundary” means the outer boundary of a property owner’s contiguous property, which may consist of one or more parcels.

(20) “Residential End-User” means a person(s) who obtain(s) Class A Biosolids for use in lawns and gardens on their private residential properties.

(21) “Staging” means the transportation and positioning of by-product material immediately [within forty-eight (48) hours] preceding land application.

(22) “Storage” means the temporary [a period exceeding forty-eight (48) hours] holding of by-product material prior to land application activities when not immediately possible due to outside constraints.

(23) “Treated FPR Material” means FPR treated to the extent described in ADEM Admin. Code r. 335-13-16-.08 as the result of biological, physical, chemical, or mechanical processes and retention time in FPR treatment impoundment(s).

(24) “Yield Goal” means the expected production of the intended crop per acre in the given calendar year.

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**Statutory Authority:** Code of Alabama 1975, §22-27-9 and §22-27-12

**History:** Filed: February 28, 2020; Effective: April 13, 2020; Proposed: January 20, 2022