

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control Rule No. 335 Department or Agency Environmental Management Rule Title: Operating Criteria for Storage, Staging and Land Application of By-Product Materials

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

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 Services Agency.

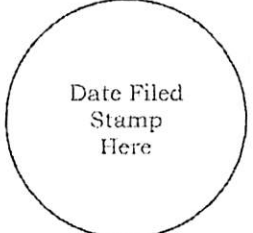
Signature of certifying officer [Handwritten Signature]

Date January 20, 2022

REC'D & FILED

A-2 JAN 20 2022

LEGISLATIVE SVC AGENCY



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



Lance R. Lefleur
Director

335-13-16-.05 Operating Criteria for Storage, Staging and Land Application of By-Product Materials.

(1) The by product material storage and land application areas shall be located a minimum of five hundred (500) feet from any inhabited building. The Department may require larger buffer zones at its discretion. Exclusions to this requirement are made for on site structures occupied by the landowner or farm operator, Class A biosolids, and industrial by-products as defined under 335 13 16 .03(2)(c)1. Notification of intent to land apply at a given registered location shall be electronically submitted to the Department by the registered Distributor at least forty eight (48) hours before land application activity begins, and at a minimum shall contain the following:

- (a) Physical address of site(s), along with GPS coordinates in decimal degrees;
- (b) Material being land applied to the site(s); and
- (c) Expected duration of land application and associated activities for the site(s).

(1)(2) The by product storage and land application areas shall be located a minimum of one hundred (100) feet from surface waters of the State, as defined in ADEM Admin. Code ch. 335 6 10, measured from the ordinary high water mark. The Department may require larger buffer zones at its discretion. After all activity has concluded at the site(s), notification of completion of land application and associated activities at a given location shall be electronically submitted to the Department within seven (7) calendar days.

(2)(3) The by product storage and land application areas shall be located a minimum of one hundred (100) feet from the property boundary. All transport and application site staging of FPR material shall be in closed container(s). Container(s) shall be kept closed unless adding or removing material, until land applied in accordance with these regulations.

(3)(4) Limitations may be placed on the agronomic application rates by the Department when determined necessary to protect human health and the environment. By-product material storage, application site staging, and land application areas shall be:

(a) Located a minimum of one hundred (100) feet from public roads and right of ways (excluding land application of Class A Biosolids);

(b) Located a minimum of five hundred (500) feet from public and private drinking water wells;

(c) Located a minimum of five hundred (500) feet from any inhabitable building. Exceptions to this requirement are allowed for on-site structures occupied by the landowner or farm operator, Class A Biosolids, and industrial by-products for which an NMP is not required pursuant to ADEM Admin. Code r. 335-13-16-.03(4)(c)1. and 2.;

(d) Located a minimum of one hundred (100) feet from surface waters of the State, as defined in ADEM Admin. Code r. 335-6-10-.02, measured from the ordinary high water mark; and

(e) Located a minimum of one hundred (100) feet from the property boundary. This requirement does not apply to Class A Biosolids and internal parcel/property boundaries of Multi-Owner Properties, as defined by ADEM Admin. Code r. 335-13-16-.02.

(5) By-products to be land applied shall not exceed the ceiling concentration limits established in ADEM Admin. Code r. 335-13-16-Appendix I.

(6) Limitations may be placed on the agronomic application rates by the Department when determined necessary to protect human health and the environment.

Author: S. Scott Story; Richard T. Kelsey

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