

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-13-16-.07
Rule Title: Operating Criteria for Food Processing Residuals

Form with questions and answers: 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.

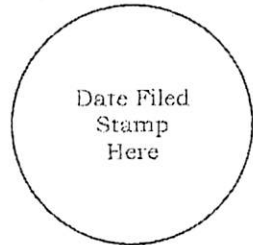
Certification of Authorized Official

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
JAN 20 2022
LEGISLATIVE SVC AGENCY



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Environmental Management

<u>RULE NO. & TITLE:</u>	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-.07 ~~Variances~~ Operating Criteria for Food Processing Residual. The

~~Department may grant individual variances only from specific provisions of this chapter that are in addition to or more stringent than any applicable federal regulations. The individual variances must be granted based upon the procedures of 335-13-8-.02 through 335-13-8-.05 whenever it is found by the Department, upon presentation of adequate proof, that non-compliance with one or more of these provisions will not threaten the public health or unreasonably create environmental pollution.~~

(1) All Distributors managing and land applying FPR shall adhere to the following additional requirements:

(a) The site restrictions listed in 1-8 of this section shall be met when FPR is land applied; or the pH of by-product material land applied shall be raised to twelve (12) or higher by alkali addition and, without the addition of more alkali, shall remain at twelve (12) or higher for thirty (30) minutes and the site restrictions in 1-4 of this section shall be met:

1. Food crops with harvested parts that touch the by-product/soil mixture and are totally above the land surface shall not be harvested for fourteen (14) months after application of by-product material;

2. Food crops with harvested parts below the surface of the land shall not be harvested for twenty (20) months after application of by-product material when the by-product material remains on the land surface for four months or longer prior to incorporation into the soil;

3. Food crops with harvested parts below the surface of the land shall not be harvested for thirty-eight (38) months after application of by-product material when the by-product material remains on the land surface for less than four months prior to incorporation into the soil;

4. Food crops, feed crops, and fiber crops shall not be harvested for thirty (30) days after application of by-product material;

5. Animals shall not be grazed on the land for thirty (30) days after application of by-product material;

6. Turf grown on land where by-product material is applied shall not be harvested for one (1) year after application of the by-product material when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the Department;

7. Public access to land with a high potential for public exposure shall be restricted for one (1) year after application of by-product material; and

8. Public access to land with a low potential for public exposure shall be restricted for thirty (30) days after application of by-product material.

(2) One of the land application requirements listed below shall be met when FPR is land applied:

(a) Subsurface injection (material is placed underneath the soil surface and is immediately incorporated into and under the soil surface), unless otherwise approved by the Department on a case by case basis. The Department may require the Distributor to

demonstrate that the requested alternative method of application will provide control of odors and vectors at least as effectively as subsurface injection, or

(b) The pH of by-product material shall be raised to twelve (12) or higher by alkali addition and, without the addition of more alkali, shall remain at twelve (12) or higher for thirty (30) minutes.

(3) By-products, including but not limited to FPR, shall not be applied to the land if the concentrations of any constituent listed in ADEM Admin. Code r. 335-13-16-Appendix I exceeds the ceiling concentration and either the cumulative loading rate or the monthly average concentration found in ADEM Admin. Code r. 335-13-16-Appendix I.

(4) The annual agronomic rate for by-product material land applied shall not exceed the annual agronomic rate, as applicable, calculated using Equation 1, or other Department approved method:

Equation 1: $AAR = \frac{N}{0.0026}$, where AAR is the annual agronomic rate in gallons per acre per 365 day period and N is the amount of nitrogen in pounds per acre per 365 day period needed by the crop or vegetation grown on the land.

(5) All transport and application site staging shall adhere to ADEM Admin. Code r. 335-13-16-.05(3).

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