

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-13-16-.08
Rule Title: Operating Criteria for Food Processing Residuals Treatment Impoundments

X New 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

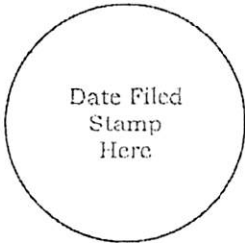
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

***** 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



A-2 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-.08 Operating Criteria for Food Processing Residuals Treatment Impoundments.

(1) FPR Treatment Impoundments must adhere to all requirements for Distributors as specified in ADEM Admin. Code ch. 335-13-16, including the additional requirements specified in ADEM Admin. Code r. 335-13-16-.07.

(2) The registrant shall ensure that all contents of the impoundment(s) are retained except as permitted under ADEM Admin. Code chap. 335-6-6.

(3) Location of FPR Treatment Impoundments must comply with all buffer zones in accordance with ADEM Admin. Code r. 335-13-16-.05(4).

(4) FPR Treatment Impoundments must have an appropriate volume-to-surface area ratio to facilitate sufficient retention time for effective and efficient treatment to protect human health and the environment. Details documenting this must be provided in the NMP.

(5) FPR Treatment Impoundments must be NRCS certified. Documentation of certification must be submitted to the Department before operation begins. In the case of existing FPR Treatment Impoundments, the registrant must obtain certification that the impoundment was constructed to current engineering standards to document the integrity of the impoundment.

(6) The FPR Treatment Impoundment must maintain at all times sufficient freeboard to contain a twenty-four (24) hr/twenty-five (25) yr rain event or at least twenty-four (24) inches of freeboard, whichever is greater. The Department may consider an equivalent alternate overflow management system(s), as warranted (e.g. additionally available freeboard in an adjacent impoundment, nearby tank, etc.). Run-on controls shall be implemented to protect the FPR Treatment Impoundment from excess stormwater from the surrounding watershed.

(7) At the deepest point of the impoundment, the grease cap thickness shall not exceed twenty-five (25) % of the maximum operational depth at any given time, regardless of season.

(8) Treated FPR Material Requirements.

(a) An NMP and OP as defined by ADEM Admin. Code r. 335-13-16-.04(2)(c) and (d) is required with the following additions:

1. The Treated FPR Material application rate will be based on nutrient analysis (agronomic rate) and retention time (treatment level); and

2. NMP must include a sludge (bottom solids) management plan for the impoundment(s).

(b) Treated FPR Material must comply with ADEM Admin. Code r. 335-13-16-.07(1) and (3) and ADEM Admin. Code r. 335-13-16-.04(2)(c)10.

(c) Application of Treated FPR Material must adhere to all buffer zones listed in ADEM Admin. Code r. 335-13-16-.05(4).

(9) Reporting Requirements.

(a) All applications must include testing results described in ADEM Admin. Code r. 335-13-16-.07(3). Materials must be tested according to the NMP and annual reporting requirements as required by ADEM Admin. Code r. 335-13-16-.09. Application surface and substrate must be tested for all constituents listed in ADEM Admin. Code r. 335-13-16-Appendix I, nitrogen, phosphorus, and other constituents as required by the Department.

(b) Renewal applications and annual reports must include all information required in ADEM Admin Code r. 335-13-16-.09, in addition to the following:

1. Amounts of FPR received and amounts of Treated FPR Material applied throughout the calendar year;

2. Counties where Treated FPR Material was applied;

3. Nutrient value testing results and agronomic loading rates; and

4. The results from testing required in ADEM Admin. Code r. 335-13-16-.07(3) and the fecal coliform test results required in ADEM Admin. Code r. 335-13-16-.04(2)(c)10.

Author: S. Scott Story; Richard T. Kelsey

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

History: Proposed: January 20, 2022