

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-13-16-.09
Rule Title: Recordkeeping and Reporting Requirements

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.

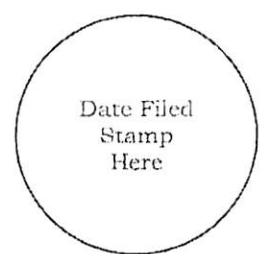
Certification of Authorized Official

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 Mary Elliott

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

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-.09 Recordkeeping and Reporting Requirements.

(1) All reporting, submittals, and correspondence for ADEM Admin. Code r. 335-13-16-.09 shall be electronically submitted in a format approved by the Department.

(2) All registrants subject to 40 C.F.R. § 503 must submit duplicate reports required under 40 C.F.R. § 503 in the annual report as described in ADEM Admin. Code r. 335-13-16-.09(3).

(3) Registrations issued pursuant to ADEM Admin. Code r. 335-13-16-.04 are subject to annual reporting requirements. All annual reports for activity conducted during the previous calendar year shall be submitted to the Department no later than February 28th of each year, for activity conducted during the previous calendar year. At a minimum, the report must contain the following information:

(a) The total quantity, in dry short tons, of by-product materials generated/managed/land applied during the previous calendar year;

(b) An updated list of all the counties in which by-product materials were used or distributed for use during the previous calendar year and how much material was generated/managed/land applied in each county;

(c) If the registrant is subject to ADEM Admin. Code r. 335-13-16-.04(2)(c), then annually performed test results in accordance with ADEM Admin. Code r. 335-13-16-.04(2)(c)10., the ceiling concentration for all constituents listed in ADEM Admin. Code r. 335-13-16-Appendix I, and the nitrogen and phosphorus rates as required by ADEM Admin. Code r. 335-13-16-.04(2)(c)5. must be submitted with the annual report;

(d) The yield of the crop grown and harvested, production destruction event/result, if applicable (e.g. drought, fire, pestilence, etc.), or a Department approved alternative (e.g. number of animals raised/grazed, etc.), for each approved application site listed in the NMP(s). This number(s) should be reported in short tons/acre or equivalent industry standard;

(e) A signed certification from the Generator affirming that the physical and chemical characteristics of the by-product materials applied were consistent with the information submitted in the approved application together with documentation of any inconsistencies. Generator certifications must be unique to each Generator facility; and

(f) A complete and accurate compliance certification, which shall include the following:

1. An itemized list with the identification of each term or condition that is the basis of the certification and method for determining compliance status. This itemized list includes, but is not limited to, the items found in ADEM Admin Code chap. 335-13-16 and the Registration;

2. The applicant's compliance status related to each term or condition and documentation of whether the compliance has been continuous or intermittent;

3. A statement signed by a responsible official including the following language, "I certify under penalty of law that this document was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and

evaluate the information submitted. I understand that the information provided will be used to determine compliance with ADEM Admin. Code chap. 335-13-16 Requirements for Beneficial Use of By-Product Materials for the Purpose of Land Application. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”; and

4. Such other information as the Department may require to determine the compliance status of the entity.

(4) Operating Record: All registered facilities shall maintain the following records for a minimum of five (5) years from generation of the record and make them available for inspection upon request:

(a) Registration, including all applications and supplemental information;

(b) Annual reports;

(c) OP and NMP, as applicable; and

(d) Notification(s) of intent and completion to land apply, for Distributors only, as required in ADEM Admin. Code r. 335-13-16-.05(1-2).

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