

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. Rule 335-13-16-.03
Rule Title: Specific Requirements for Land Application of By-Product Materials

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 Nancy Elliott

Date: July 22, 2019

(DATE FILED)
(STAMP)

APA-2

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULE NO. & TITLE:

335-13-16-.01 Purpose (New)
335-13-16-.02 Definitions (New)
335-13-16-.03 Specific Requirements for Land Application of By-Product Materials
(New)
335-13-16-.04 Notification and/or Registration Application Requirements (New)
335-13-16-.05 Operating Criteria for Land Application of By-Product Materials (New)
335-13-16-.06 Recordkeeping and Reporting Requirements (New)
335-13-16-.07 Variances (New)

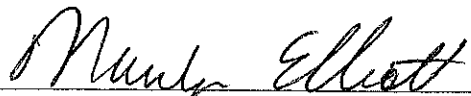
INTENDED ACTION: Revise Division 13 of the ADEM Administrative Code.

SUBSTANCE OR PROPOSED ACTION: The Alabama Department of Environmental Management proposes to amend the ADEM Administrative Code to adopt new standards for the beneficial use of by-product materials for the purpose of land application.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Comments may be submitted in writing or orally at a public hearing to be held September 5, 2019 at 10:30 AM in the Main Hearing Room at the ADEM Central Office located at 1400 Coliseum Boulevard, Montgomery, Alabama 36110-2400.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: September 5, 2019

CONTACT PERSON AT AGENCY: Eric L. Sanderson, Chief of the Solid Waste Branch, ADEM Land Division (334-271-7755)



Lance R. LeFleur
Director

335-13-16-.03 Specific Requirements for Land Application of By-Product Materials.

(1) By-product materials may be eligible for consideration for land application under this rule, where such materials meet the following requirements:

(a) The material, proposed for beneficial use, must be a "by-product" as defined in 335-13-16-.02.

(b) The by-product material proposed for beneficial use must be adequately characterized to confirm that the proposed use is adequately protective of the human health and the environment and that the by-product possesses physical and/or chemical properties which make the material suitable for the intended agronomic rate as defined in 335-13-16-.02.

(c) The by-product material proposed for beneficial use must not be "putrescible" as defined in 335-13-16-.02.

(d) The by-product material proposed for beneficial use must not be a hazardous waste as defined in 335-14-1-.02.

(2) The proposed beneficial use must conform to the following use specific standards.

(a) The proposed beneficial use must utilize a by-product in such a manner that the by-product serves as a suitable replacement for a raw material or other feedstock and, through its use, provides a benefit comparable to the material it is proposed to replace.

(b) The beneficial use must not serve the purpose of discarding or disposing of the by-product, as determined by the Department.

(c) No by-product materials may be land applied unless a NRCS Comprehensive Nutrient Management Plan and an Operations Plan are developed and implemented for the site where the by-product material is to be land applied.

(d) These rules and regulations do not supersede any other state or federal regulations regarding beneficial use. Generators, distributors, and end users of beneficial use materials shall comply with this chapter and any other applicable state and federal rules and regulations.

(3) Land application of by-product materials as covered in ADEM Admin. Code div. 335-6 Volume 1 is exempt from these requirements.

Author: S. Scott Story

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

History: Proposed: July 22, 2019.