

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
LAND DIVISION – SOLID WASTE PROGRAM**

**CHAPTER 335-13-16
REQUIREMENTS FOR BENEFICIAL USE OF BY-PRODUCT MATERIALS FOR THE
PURPOSE OF LAND APPLICATION**

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335-13-16-.01 Purpose. The purpose of this chapter is to establish procedures to encourage and regulate the land application of eligible non-hazardous by-product materials within the State.

Author: S. Scott Story

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

History: Proposed: July 22, 2019.

335-13-16-.02 Definitions. For the purpose of this chapter, the following terms have the meaning given below:

(1) “Agronomic Rate” means the land application of by-products at rates of application which provide the crop or forage growth with needed nutrients for optimum health and growth in accordance with Natural Resources Conservation Services (NRCS) technical standards and guidelines to ensure the protection of human health and the environment.

(2) “Applier or End User” means the person, organization, or business that will utilize a by-product material in a manner consistent with these regulations.

(3) “Beneficial Use” means the use of a by-product material as a soil amendment or fertilizer material, where the by-product material replaces a natural or other resource material by its utilization.

(4) “By-Product” means a material that is generated as a result of water or wastewater treatment that, barring any form of alternate or beneficial use of that material, would otherwise be discarded at a landfill or other solid waste disposal facility.

(5) “Distributor or Supplier” means the person, organization, or business who provides or resells by-product material to an applier or end user.

(6) “Generator” means the person, organization, business, industry, agency or institution whose daily activities or business results in the generation of a by-product material.

(7) “NRCS” means the Natural Resources Conservation Services, an agency within the U. S. Department of Agriculture.

(8) “Putrescible ” means materials, which contain organic matter capable of being decomposed by microorganisms and of such a character and proportion as to be capable of attracting or providing food for vectors including birds and mammals and cause nuisances from odors or gases.

Author: S. Scott Story

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

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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

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335-13-16-.04 Notification and/or Registration Application Requirements.

(1) Initial Notification. In order for the Department to develop the universe of potential regulated entities, the Department requires the following information.

(a) All generators and distributors or suppliers that handle and/or use by-product material for beneficial use, must within 90 days of the effective date of these rules, notify the Department in writing of the following information.

1. The quantity of by-product materials in dry tons handled during the previous calendar year; and,
2. Type(s) of by-product materials land applied in the past calendar year; or
3. Counties within the State where the land application has occurred within the past calendar year.

(2) Registration Application Requirements.

(a) Generators that handle 100 dry tons per year or more of eligible by-product material for beneficial use must submit the following items to the Department:

1. A completed application form with the applicable fees, and;
2. A list of distributors or suppliers that handle the by-product material and a copy of their Operations Plan(s).

(b) Distributors or Suppliers that handle 100 dry tons per year or more of eligible by-product material for beneficial use must submit the following items to the Department:

1. A completed application form with the applicable fees,
2. Site-specific NRCS Comprehensive Nutrient Management Plan(s) detailing at a minimum the following:
 - (i) Application site location(s) and property description;
 - (ii) Brief description of the operation;
 - (iii) Crops and soils information;
 - (iv) Yield goal information;
 - (v) Timing and method of applications; and,
 - (vi) Best management practices.
3. An Operations Plan for handling and transportation of the by-product material which shall include best management practices for minimizing the following:
 - (i) Vectors and birds;

- (ii) Odors;
- (iii) Spills; and,
- (iv) The amount of time in transit.

(c) All entities subject to 335-13-16-.04(2)(a) or (2)(b) shall submit a registration application to the Department within one hundred eighty (180) days of the effective date of 335-13-16. New entities desiring to begin operation after the effective date of 335-13-16 must submit a completed registration application to the Department prior to beneficially using a by-product as required by 335-13-16-.04(2)(a) or (2)(b).

(3) Upon the review and determination that an application is consistent with these regulations, the Department shall issue a registration to the applicant, subject to the following conditions:

(a) Registrations issued by the Department are only valid for uses conducted within the state of Alabama.

(b) Upon utilization of the material, a by-product for which a Registration has been issued shall no longer be subject to 335-13-1 through 335-13-15 regulations provided the by-product is utilized in a manner consistent with the terms and conditions of the Registration.

(c) The placement, dumping or other use of a by-product materials in a manner inconsistent with the Registration may be considered an unauthorized dump as defined in under 335-13-1-.03 and the responsible party may be subject to enforcement actions by the Department under 335-13-1-.13.

(d) The issuance of a Registration does not exempt the generator, distributor, nor end user from compliance with applicable water quality and air quality regulations when managing or beneficially using a by-product under these regulations. Best management practices should include procedures for land application which minimize the creation of fugitive air-borne dust which could leave the application site.

(e) If an applicant is determined to be in significant noncompliance with the requirements of this chapter, the registration may be revoked or the application for registration denied by the Director.

(4) All generators and distributors or suppliers that handle less than 100 dry tons per year of eligible by-product material for beneficial use along with all applicers and end users must maintain records on-site as contained in paragraphs (2)(b)2. and 3. of this section.

(a) The placement, dumping or other use of a by-product in a manner inconsistent with the requirements of this chapter may be considered an unauthorized dump as defined in under 335-13-1-.03 and the responsible party may be subject to enforcement actions by the Department under 335-13-1-.13.

Author: S. Scott Story

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

History: Proposed: July 22, 2019.

335-13-16-.05 Operating Criteria for Land Application of By-Product Materials.

(1) The by-product 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.

(2) The by-product storage and land application areas shall be located a minimum of one hundred (100) feet from any streams, ponds and lakes measured from the ordinary high water mark. The Department may require larger buffer zones at its discretion.

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

Author: S. Scott Story

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

History: Proposed: July 22, 2019.

335-13-16-.06 Recordkeeping and Reporting Requirements.

(1) Registrations issued under 335-13-16-.04 of these regulations are subject to annual reporting requirements, which are as follows:

(a) The applicant to whom a Registration is issued shall be required to submit an annual report to the Department. All annual reports shall be submitted to the Department no later than January 31 of each year, for activity conducted during the previous calendar year. At a minimum, the report must contain the following information:

1. The quantity of the by-product materials handled during the previous calendar year;

2. An updated list of all the locations on which by-product materials were used and or/distributed for use during the previous calendar year;

3. A signed certification from the generator stating that the physical and chemical characteristics of the by-product materials are consistent with the information submitted in the approved application along with documentation of inconsistencies; if applicable and,

4. Compliance Certification. The applicant shall submit a complete and accurate compliance certification that shall include the following:

(i) The identification of each term or condition that is the basis of the certification and method for determining compliance status;

(ii) The applicant's compliance status related to each term or condition and documentation of whether the compliance has been continuous or intermittent; and,

(iii) Such other facts as the Department may require to determine the compliance status of the entity.

Author: S. Scott Story

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

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335-13-16-.07 Variances. 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.

Author: S. Scott Story

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