

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 80 Department of Agriculture and Industries

Rule No.: 80-1-14-.07

Rule Title: Pesticide Application Limitations.

 New; x Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

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? Minimum 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 rule have any 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 Reference Service.

Signature of certifying officer John Mc Miller

Date: 3/20/2013

(DATE FILED)
(STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
ANIMAL INDUSTRY

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Agriculture and Industries

Rule No. & Title: 80-1-14-.07 Pesticide Application Limitations

Intended Action: To Amend

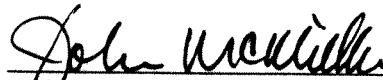
Substance of Proposed Action: Expound on the Application of Pesticides by Aircraft

Time, Place, Manner of Presenting Views: Presenting views must be in writing to the contact person below or in person on Tuesday, May 14, 2013 at 10:00 a.m., in the Auditorium of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama.

Final Date for Comment and Completion of Notice: May 14, 2013.

Contact Person at Agency: Patrick B. Moody, Legal Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. (334)240-7117.

3/20/2013
Date



John McMillan
Commissioner of Agriculture
and Industries

Pesticide Application Limitations.

(1) Based on evidence presented at a hearing before the Commissioner, the Commissioner may, with approval of the Board, declare an area or locality, described by prominent geographical features, as a pesticide management area in which custom pesticide application shall not be permitted or shall be limited as to method of application and pesticide(s) used and to time of year when application of pesticide(s) can occur.

The Commissioner shall issue an order defining the area to be designated a pesticide management area giving the conditions and extent of the limitations on custom pesticide application. A copy of the Commissioner's order shall be mailed to all persons affected by the order.

(2) Based upon evidence at a hearing before the Commissioner, the Commissioner may amend any license by specifying on its face any limitations under which Licensee may continue to apply certain pesticides; or specify on the license those pesticides Licensee is prohibited from applying.

(3) The pilot shall, prior to application, learn and confirm:

(a) The boundaries and exact location of the target areas,

(b) The identity of non-target areas and safety hazards located on or adjacent to the target areas.

(4) Spray and spreading equipment shall be thoroughly rinsed after each pesticide application except when the next application operation will be made using the same pesticide, or if another pesticide, one which by its manufacturer's recommendations is compatible with that previously in the equipment, and will not result in any adverse effects or illegal residues. Rinsing shall be conducted in an area where an environmental hazard will not be created by the drainage or disposal of waste materials and conducted with methods which will not create an environmental or human hazard.

(5) All pesticides applied as liquids, in liquid carriers, or as dusts shall be released within 15 feet above the canopy of the target area, except where obstructions in or adjacent to the target area would endanger the safety of the pilot while applying pesticides at that altitude.

(6) All pesticides applied aurally as dry granules or pellets shall be released within 40 feet above the canopy of the target area, except where obstructions in or adjacent to the

target area would endanger the safety of the pilot while applying pesticides at that altitude.

(7) Pesticide application is prohibited when wind speeds exceed label directions or 10 m.p.h. whichever is lowest.

(8) Licensee dispensing pesticide(s) by aircraft shall be limited as follows:

(a) No pesticide shall be deposited by aircraft within 400 feet of the premises of schools, hospitals, nursing homes, or occupied churches.

(b) No pesticide shall be deposited by aircraft on any dedicated road or on any vehicle using such road.

(c) No pesticide labeled toxic or harmful to aquatic life shall be deposited in or near any body of water in such manner as to be hazardous to aquatic life unless such aquatic life is the intended target of the pesticide.

(d) No pesticide shall be deposited inside any residential or business property line unless written consent for such an application to occur has been obtained from an inhabitant of said residence or business who is at least eighteen (18) years of age. The consent agreement shall include the following:

1. Date of agreement,
2. Time period for which the Agreement is valid,
3. Address, location, or designation of residence or business,
4. Signature of the consenting inhabitant of residence or business.

(9) No person shall dispense or cause to be dispensed from aircraft engaged in custom pesticide application any pesticide:

(a) Under such conditions that the applied pesticide would drift outside of the target area to be treated and cause or create a hazard or potential adverse effect to man or the non-target environment;

(b) Under conditions that would result in pesticide overspray;

(c) Not registered with the Alabama Department of Agriculture and Industries and/or Environmental Protection Agency;

(d) In a manner inconsistent with its registered label;

(e) In a manner that creates a hazard to persons, property, established apiaries, aquatic life, wildlife, and other non-target organisms.

Author: Marise Mims Sandidge, Patrick B. Moody

Statutory Authority: Code of Ala. 1975, §2-27-57.

History: Adopted January 18, 1974; effective April 1, 1974;

Filed April 19, 1982. **Reformatted:** Filed June 19, 1986.

Amended: May 11, 1993. **Amended:**