

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 80 Department of Agriculture and Industries

Chapter 80-8-11

Chapter Title: Rules for Agricultural Tourist Attraction Program

x New; 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? 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 McManis
Date: 3-19-2012

(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

Chapter & Title: 80-8-11 Rules for Agricultural Tourist
Attraction Program

Intended Action: To create new chapter.

Substance of Proposed Action: To enact rules for approved
Agricultural Tourist Attraction as required by act 2011-547.

Time, Place, Manner of Presenting Views: Views may be presented
in writing to the contact person below or in person on Tuesday,
May 8, 2012 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 8, 2012.

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

3-19-2012
Date

John McMillan
John McMillan
Commissioner of Agriculture
and Industries

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

MARKETING

ADMINISTRATIVE CODE

CHAPTER 80-8-11

RULES FOR AGRICULTURAL TOURIST ATTRACTION PROGRAM

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Tourist Attraction Designation.

80-8-11-.01 Purpose. The purpose of this chapter is to promote the growth of agricultural tourism in Alabama by establishing the rules required by Act Number 2011-547. This chapter establishes the requirements and guidelines for becoming an Approved Agricultural Tourist Attraction and establishes the Agritourism Advisory Committee.

Author: Patrick B. Moody

Statutory Authority: Act No.2011-547

History:

80-8-11-.02 Definitions. For the purposes of this Chapter, the following definitions shall apply:

(a) Agritourism Advisory Committee means the committee that shall review all applications and determine if an agribusiness meets the requirements of this Chapter to become an approved agricultural tourist attraction. The Committee shall advise the Commissioner on an applicant's compliance with this Chapter. The Agritourism Advisory Committee may also be referred to as the "Committee."

(b) **Approved Agricultural Tourist Attraction** means an agribusiness that meets the requirements of this Chapter and has been designated as an Approved Agricultural Tourist Attraction in accordance with this Chapter. An Approved Agricultural Tourist Attraction may also be referred to as an "AATA" or as an "Attraction."

(c) **Commissioner** means the Commissioner of the Alabama Department of Agriculture and Industries.

(d) **Department** means the Alabama Department of Agriculture and Industries.

Author: Patrick B. Moody

Statutory Authority: Act No.2011-547

History:

80-8-11-.03 Application, Renewal, and Revocation; Fees

(1) An agribusiness applying for the designation of "Approved Agricultural Tourist Attraction" shall complete the application provided by the Department of Agriculture & Industries. The Agritourism Advisory Committee shall review each application, and advise the Commissioner as to whether the applicant meets the requirements for an AATA designation as described in rule 80-8-11-.05. The Commissioner shall make the final determination concerning an applicant's status as an AATA.

(2) Each application shall be accompanied by a non-refundable application fee of \$100.00, payable to the Alabama Department of Agriculture & Industries. .

(3) Each applicant designated by the Commissioner as an Approved Agricultural Tourist Attraction, shall pay to the Department an annual renewal fee of \$100.00. The renewal fee shall accompany the annual report form provided by the Department. Annual reports and renewal fees shall be delivered to the Department on or before September 30th of each year. The Commissioner shall revoke the "Approved Agricultural Tourist Attraction" designation for any Attraction that fails to file an annual report or fails to pay the renewal fee, and shall notify the Alabama Department of Transportation that the Attraction is no longer an AATA.

(4) Every three (3) years the Department shall provide all Approved Agricultural Tourist Attractions with

a compliance evaluation form. Each AATA shall complete the compliance evaluation form and return the form to the Department. The Committee will review each compliance evaluation form and advise the Commissioner on whether each AATA is still in compliance with this Chapter. If an AATA is still operating within the requirements of this Chapter, the Committee shall recommend that the Commissioner reapprove the Attraction's designation as an Approved Agricultural Tourist Attraction. If an AATA is not operating within the requirements of this Chapter, the Committee shall give written notice to the Attraction that it has thirty (30) days to come into compliance with this Chapter. If an Attraction is still not in compliance with this Chapter at the expiration of the thirty (30) days, the Committee shall recommend that the Commissioner revoke the Attraction's designation as an "Approved Agricultural Tourist Attraction," and notify the Alabama Department of Transportation that the Attraction is no longer an AATA. The Commissioner shall make the final determination regarding an AATA's compliance with this Chapter.

(5) The Commissioner may revoke an agribusiness's AATA designation, at any time, if the agribusiness fails to continue operating within the requirements of this Chapter.

(6) If an Attraction has had its designation as an AATA revoked for any reason, that attraction shall not be eligible to reapply for AATA designation for two (2) years from the date of revocation.

Author: Patrick B. Moody

Statutory Authority: Act No.2011-547

History:

80-8-11-.04 Agritourism Advisory Committee Created

The Committee shall consist of five individuals with knowledge of agritourism and rural economic development. All five committee members shall be appointed by the Commissioner of Agriculture and Industries, and all shall serve at the will of the Commissioner. The Commissioner shall choose one committee member from each of the following entities: the Alabama Department of Agriculture and Industries, the Alabama Farmers Market Authority, the Alabama Cooperative Extension System, and the Alabama Farmers Federation. The fifth committee member shall be an individual from the agritourism industry. The committee

shall advise the Commissioner regarding an applicant's compliance with the requirements of this Chapter.

Author: Patrick B. Moody

Statutory Authority: Act No. 2011-547

History:

80-8-11-.05 Requirements For Approved Agricultural Tourist Attraction Designation.

(1) An Approved Agricultural Tourist Attraction shall be a commercial enterprise that complies with requirements of this Chapter and has been approved by the Commissioner. The Attraction may be located at any agricultural location, including horticultural and agribusiness operations that generates tourism income. Examples of commercial enterprises meeting this requirement include, but are not limited to, farms, vineyards, farm wineries, seasonal U-pick operations, farm stands, roadside stands, educational and entertainment agritourism farms, Christmas tree farms, and Farmers markets that are designated "Certified Markets" by the Alabama Farmers Market Authority. The use of the word "farm" in this section includes farm wineries, certified farmers markets, and vineyards.

(2) An agribusiness seeking the designation of Approved Agricultural Tourist Attraction shall:

(a) Be open to the public a minimum of five (5) days a week, 3 to 6 hours per day, preferably one weekend day during the farm's selected season(s). This requirement shall not apply to seasonal operations such as U-pick farms, "Certified Farm Markets" of the Farmers Market Authority, Christmas tree farms, pumpkin patches, corn mazes, fall farms open only in the September through December time frame, farms open for special events or festivals, or for craft and artists' farms which are open by appointment or reservation only.,

(b) Maintain a clean and neat appearance at farm entrance and throughout visitor areas,

(c) Must be located on a site free of threats to human health and safety with signage indicating health and safety information and facilities,

(d) Must provide trained staff who welcome individuals or groups, give interpretive tours, answer questions, and are available for assisting tourists, and

(e) Must provide tourists with informational material such as brochures, flyers, maps, activity sheets relating to the agritourism site.

(3) Any agribusiness seeking the designation of Approved Agricultural Tourist Attraction shall also satisfy at least five of the additional requirements below:

(a) Provide educational material for school visits related to farm activities for use both pre and post-visit in addition to materials for use while at the farm,

(b) Provide tourists with clear directions from staff regarding recreational activities and safety rules,

(c) Demonstrate the active production of food, fiber, or other farm products while providing tourists information regarding the process through conversations with staff or appropriate signage,

(d) Demonstrate proper care for livestock, fish, or small animal exhibits while providing tourists information regarding the process through conversations with staff or appropriate signage,

(e) Provide clean restrooms for tourists. Restrooms may be portable, and shall be accessible to special needs tourists,

(f) Provide parking areas with marked spaces on level ground for special needs tourists,

(g) Provide warnings on any areas or activities not accessible or conducive to the safety of special needs or physically-challenged individuals,

(h) Display clearly visible and easy to understand directional signage for all activities,

(i) Provide a free telephone for emergency use with emergency numbers posted near by,

(j) Provide tourists easy access to clean drinking water,

(k) Maintain an area set aside for tourists to relax,

(l) Provide at least one staff member on site that is trained in first aid procedures with a first aid kit that is readily available, inspected frequently, and stocked appropriately,

(m) Provide tourists with a pre-visit packet mailed prior to the visit containing information related to the farm,

(n) Provide tourists with a simple tourist satisfaction survey or similar evaluation tool for feedback from of individuals or groups to assess visitor impression of farm visit, or

(o) Provide easily accessible and smooth paths to accommodate wheelchairs, walkers, and strollers.

(4). In its application, an agribusiness shall declare whether it is applying to be an Approved Agricultural Tourist Attraction in one of the following categories: (1) a Vineyard/Farm Winery, (2) an Agritourism Facility, or (3) a Commercial Agritourism Business. In addition to the requirements of 80-8-11-.05 (1), (2) and (3) above, the agribusiness must meet the following requirements for its chosen category.

(a) To be eligible as an Approved Agricultural Tourist Attraction in the Vineyard/Farm Winery category, the applicant shall:

1. Produce wine derived from vineyards on the premises.

2. Conduct regularly scheduled public tours of the grounds or facilities, or
Provide such tours upon walk-up request.

3. Market the product on the premises as a retail sale.

4. Have a wine tasting area on the premises, and

5. Have a winery permit issued by the State of Alabama.

(b) To be eligible as an Approved Agricultural Tourist Attraction in the Agritourism Facility category, the applicant shall:

1. Sow, cultivate, grow, or produce an agricultural product on site.

2. Open to tourists for special events or seasonal activities.

3. Devote a minimum of five acres of land to the sowing, cultivating, growing, or production of an agricultural product, and

4. Market the product on the premises for retail sale.

(c) To be eligible as an Approved Agricultural Tourist Attraction in the Commercial Agritourism Business category, the applicant shall:

1. Demonstrate that the business exists on agricultural land or focuses on agricultural products,

2. Be a tourist destination or an accommodation that is not part of a franchise or national chain,

3. Provide a commercial product or service recognized as significant to tourists, and

4. Provide a commercial product or service recognized as important.

Author: Patrick B. Moody

Statutory Authority: Act No. 2011-547

History: