



August 19, 2021

Eugene Nicholas
Nicholas Meat, LLC
508 E. Valley Rd.
Loganton, PA 17747

Re: *Department Approval of Alternative Best Management Practices*

Dear Mr. Nicholas,

The Department is in receipt of Nicholas Meat, LLC's proposed alternative best management practices (BMPs) dated August 6, 2021, a copy of which is enclosed as Attachment 1. Pursuant to 25 Pa. Code § 287.101(b)(2), the Department approves the alternative BMPs as outlined in the proposal. The Department's approval constitutes an agreement for the methods Nicholas Meat, LLC may use to land apply Food Processing Residual (FPR) under specific weather conditions in compliance with the additional restrictions that are set forth in the proposal.

This approval is an action of the Department authorized and issued pursuant to Section 602 of the SWMA, 35 P.S. §6018.602; and Section 1917-A of the Administrative Code, 71 P.S. §510-17.

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board), pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa. C.S. Chapter 5A. The Board's address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street
P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Environmental Hearing Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <http://ehb.courtapps.com> or by contacting the Secretary to the Board

at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

FOR THE COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Enclosure

Patrick Brennan.
Environmental Program Manager
Waste Management Program

Nicholas Meat LLC Alternative BMPs

FPR is land applied throughout all four seasons of the year (Winter, Spring, Summer and Fall). The volume of FPR applied to each field is determined by the application method and the crop nutrient needs. FPR will be land applied as weather and ground conditions allow for the FPR to be absorbed/incorporated into the soil to mitigate the risk of potential runoff. The following are the parameters for land application of FPR when specific weather conditions, i.e., snow-cover, frozen soil, or ice-cover (collectively, "Inclement Weather Conditions"), are present:

- A. **Applicable Conditions:** When Inclement Weather Conditions are present, as set forth in **Part E** below. Note that in order to preserve storage space, and because the shallow-disc technology is effective in incorporating the FPR into the soil, land application of Nicholas Meat's FPR may occur with slope/volume/setback restrictions. See **Part E**.
- B. **Storage:** Nicholas Meat will endeavor to preserve as much storage space as possible leading up to the Winter season. Nicholas Meat's current storage options include two onsite tanks (approximately 1,045,000 gal. total capacity) and access to a variable portion of the tank at the Bowes' Farm (approximately 2,400,000 gal. total capacity). In addition, Nicholas Meat expects to have access to an additional storage tank within the next year (approximately 2,400,000 gal. total capacity) and may thereafter have access to another new storage tank.
- C. **Equipment/Crop Cover:** During Inclement Weather Conditions, FPR applications will be performed using an injection toolbar on fields having 25% residue cover or a cover crop.

The current Bazooka Farmstar Shallow-Disc Injection Toolbar ("Toolbar")¹ has 24-inch spacing between application units. Therefore, multiple applications can be achieved by running the toolbar approximately 8 inches from the previous application, spaced out to leave approximately 8 inches of soil between each groove of FPR application during the Winter. FPR will be applied by starting at one side of a field or group of fields and working towards the other side of the field or group of fields, then returning to the initial starting point to begin the next application. Operators will allow at least one day of rest between each application on a particular field.

- D. **Setbacks:** See **Part E**, below for specific proposed setback requirements.
- E. **Specific Weather Conditions:** The following additional parameters/BMPs will apply during Inclement Weather Conditions. At the beginning of the Winter season each year, as defined by the Manure Management Manual, Nicholas Meat will provide to the Department a list of applicable fields that will then be subject to the following special restrictions:

¹ Manufacturer specifications of the Bazooka Toolbar are included as Attachment A.

Weather Condition ²	Slope/Volume	Enhanced Setback Restrictions	Additional Notes / Justification
No Snow Cover No Frozen Soil No Ice Cover	No Slope Restriction/9,000 gpd.	None. ³	Allows preservation of storage to plan for severe, or long-term, Inclement Weather Conditions.
Snow Cover (Toolbar remains effective)	Allowable on A and B soils/ 5,000 gpd.	None. ^{3,4}	The Toolbar injects the FPR into the soil, decreasing the risk of runoff.
Frozen Soil or Ice Cover (Toolbar remains effective)	Allowable on A and B soils / 5,000 gpd.	None. ^{3,4}	The Toolbar injects the FPR into the soil, decreasing the risk of runoff.
Snow-cover, frozen soil, or ice-cover so that the Toolbar cannot be 100% effective	Land application under these conditions can occur when no storage capacity or other disposal exists at the generation facility. During these conditions, the slopes at the land application area cannot exceed 5% and sufficient vegetation must exist to prevent the runoff of FPRs. The application of FPRs must be in accordance with the site nutrient management plan. Nicholas Meat shall identify applicable fields at the beginning of the Crop Year. Upon consultation with the Department at least 24 hours in advance of applying FPR at the time of these conditions, FPR may be applied to areas under 5% in slope, and at a reduced volume of 4,250 gpd.	Additional 100-foot setbacks from surface water, stream, lake, or pond.	Storage would be utilized first, but if storage will not accommodate the FPR, these more restrictive application parameters will apply.

² Applies to any area of the field where condition is present.

³ General Site Criteria and Required Isolation Distances as set forth in 25 Pa. Code §291.202 and 25 Pa. Code §287.101(b)(2). In addition to the Regulations cited within this footnote, application shall be avoided within the following minimum isolation distances: fifty (50) feet from its Property Line; twenty-five (25) feet from the perimeter of an undrained depression; and twenty-five (25) feet from any Bedrock outcrop.

⁴ Application shall be avoided in concentrated flow areas.

- F. Instructions to Operators:** Nicholas Meat will provide operators with a set of **two** maps for each field: (1) a Map with year-round setback restrictions; and (2) a Map with setback/slope restrictions for when Toolbar is not 100% effective, which will identify the permissible areas for application under these circumstances.
- G. Recordkeeping:** In addition to keeping daily application records, which identify fields and log application volumes, operators will also develop either a form or modify the current computer system to indicate weather conditions. An Annual Operations Report, inclusive of harvested crop yield information, shall be submitted for the previous agricultural season by January 31st.
- H. Reservation of Rights.** The Department reserves the right to require abatement of any adverse conditions resulting from the practices described within the alternative best management practices. Nicholas Meat reserves the right to challenge any action which the Department may take.

ATTACHMENT A

SPECIFICATIONS

STANDARD

- Spacing options:
 - 16"
 - 18"
 - 20"
 - 24"
 - 30"
- Single closure blade
- 6" running depth
- Main coulter blade | 22", 13 wave
- Closure blade | 17", 13 wave
- Depth gauge wheel and cover plate
- Cast ductile iron closure mount arm
- Greaseless closure and bushing
- Bolt-in main hub and spindle
- Adjustable closure blade angle option
 - 4.5°
 - 6°
- Adjustable trip force

OPTIONS

- Double closure blade
- Bolt-on closure spring mount plate

ADVANTAGES

Low soil disturbance

Improved useful life

Eliminates clogging

Reduced streaking throughout the field

Higher application rates

Even nutrient coverage

Precise nutrient placement

No additional tillage required

The spacing of our Phantom Units provide an advantage of their own