



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

September 24, 2021

Mel Kurtz
Grow Ohio Tree Farm, LLC
8600 E. Pleasant Valley Road
Independence, Ohio 44131

**Re: Grow Ohio Tree Farm LLC
Permit – Short Term
Approval
Beneficial Use
Muskingum County
BENU024510**

**Re: Grow Ohio Tree Farm LLC
Permit – Short Term
Exemption
Beneficial Use
Muskingum County
BENU024510**

**Subject: Grow Ohio Tree Farm, LLC
Land Application Management Plan Permit Approval and Exemption
Dry Distillers Grain**

Effective Date: September 24, 2021

Expiration Date: September 24, 2026

Dear Mr. Kurtz,

The Ohio Environmental Protection Agency (Ohio EPA) has received and reviewed the land application management plan (LAMP) permit application submitted by Grow Ohio Tree Farm, LLC (Grow Ohio), located at 6400 Maysville Pike, East Fultonham, Ohio, a 59-acre tree farm (Site). This LAMP permit and exemption (LAMP Permit), issued pursuant to Chapters 3734 and 6111 of the Ohio Revised Code (ORC), is for the use of dry distillers grain generated from the distillation process at Valero Renewables in Bloomingburg, Ohio, by placement on the land for agronomic benefit.

The Director of Ohio EPA (Director) has determined that issuing this LAMP Permit to land apply dry distillers grain in the quantities and under the circumstances specifically as authorized in this LAMP Permit is unlikely to adversely affect public health or safety or the environment. This approval is for the placement of dry distillers grain in trenches for agronomic benefit in deep row hybrid poplar farming. This LAMP Permit shall be used in conjunction with the Division of Surface Water's (DSW) LAMP Permit No.

OMP00042*BM, issued on June 10, 2021, or any other modification or renewal of LAMP Permit No. 0M00042*BM (DSW LAMP).

This LAMP Permit is issued pursuant to ORC Chapters 3734 and 6111 for the use of dry distillers grain by placement on the land for agronomic benefit. Pursuant to the authority of the Director under ORC Chapters 3734 and 6111, this LAMP Permit for Grow Ohio is approved subject to compliance with the LAMP permit application and all conditions below.

Further, the Director has determined that granting an exemption from the applicable solid waste provisions of ORC Chapter 3734 to use dry distillers grain under the circumstances specifically authorized in this LAMP Permit is unlikely to adversely affect public health or safety or the environment. Therefore, pursuant to ORC Section 3734.02(G), the Director hereby exempts Grow Ohio from the applicable solid waste provisions of ORC Chapter 3734 and rules adopted thereunder specific to the land application of dry distillers grain as authorized in this permit.

CONDITIONS

1. As used in the LAMP Permit:
 - a. "Agronomic benefit" means the promotion or enhancement of plant growth and includes but is not limited to increases in soil fertility and moisture retention.
 - b. "Waters of the state" has the same meaning as in section 6111.01(H) of the Revised Code.
2. This LAMP Permit authorizes the land application of dry distillers grain generated by Valero Renewables, managed in accordance with this LAMP Permit and the DSW LAMP and the application as attached and incorporated herein. Dry distillers grain will be placed on the land for agronomic benefit. This authorization shall not be construed to authorize any other use of dry distillers grain.
3. Only dry distillers grain that is not a hazardous waste as defined by ORC Chapter 3734, Ohio Administrative Code (OAC) Rule 3745-50-10(H), and OAC Rule 3745-51-03, are eligible for land application under this LAMP Permit. All other dry distillers grain land applications must be separately approved for use by Ohio EPA. Generator knowledge and totals analysis submitted to Ohio EPA by Grow Ohio on March 17, 2021, demonstrated the dry distillers grain is not a hazardous waste.
4. Ohio EPA's jurisdiction is limited to determining whether land applying the material is unlikely to harm public health, safety, or the environment.
5. Dry distillers grain shall be stored and land applied at the Site in accordance with the conditions of this LAMP Permit. Approval of this LAMP Permit does not

constitute an assurance that use of dry distillers grain in accordance with the approved LAMP Permit will be in compliance with all Ohio laws and regulations.

6. Grow Ohio is responsible for identifying and obtaining any additional authorizations necessary to land apply dry distillers grain as described in this LAMP Permit. Except for the applicable solid waste provisions of ORC Chapter 3734 and rules adopted thereunder exempted by this LAMP Permit, issuance of this LAMP Permit to Grow Ohio neither relieves Grow Ohio of the duty to comply with nor authorizes Grow Ohio to conduct activities in violation of any applicable federal, state, or local laws, ordinances, or regulations. All activities shall be accomplished in compliance with all federal, state, or local laws and regulations pertaining to environmental protection, including but not limited to the control of air pollution, leachate, and storm water run-on and run-off and protection of ground water and surface water.
7. Grow Ohio shall ensure that dry distillers grain intended for land application under this LAMP Permit is analyzed at a minimum annually in accordance with this LAMP Permit. When collecting and analyzing samples pursuant to this LAMP Permit, Grow Ohio shall ensure the following requirements are satisfied:
 - a. One representative sample shall be collected of dry distillers grain intended for land application under this LAMP Permit;
 - b. The sample(s) are analyzed for the constituents listed in Table 1 of this LAMP Permit and constituents added pursuant to Condition Number 8;
 - c. The reported detection limit for the analysis shall be below the limit specified for each constituent in Table 1; and
 - d. The analytical methods employed generate reliable constituent results in units consistent with the units in Table 1 and the units of the limits set in accordance with Condition Number 8.

Table 1: Constituent Limits

Constituents¹	Totals Analysis (mg/kg)
Arsenic	41
Cadmium	39
Copper	1,500
Lead	300
Mercury	10

¹ Limit for Mercury is a US EPA Regional Screening Level; Residential Soil. Limits for Arsenic, Cadmium, Copper, Lead, Molybdenum, Nickel, Selenium and Zinc are US EPA 40 Code of Federal Regulations Part 503 Pollutant Concentrations (Table 1 and Table 3 of 503.13)

Molybdenum	75
Nickel	420
Selenium	100
Zinc	2,800

8. Ohio EPA reserves the right to add constituents to Table 1 and set limits for those newly added constituents as it deems necessary to protect public health or the environment, without modifying this LAMP Permit, by providing 30-days written notice to Grow Ohio. At the conclusion of the 30-day notice period, each constituent added, together with its related limits, shall be considered part of Table 1.
9. Grow Ohio shall not use for land application any dry distillers grain that contains constituents at levels that exceed any of the constituent concentration limits specified in Table 1 or any constituent concentration limit for any additional constituent that Ohio EPA has identified to Grow Ohio as requiring testing. Analysis submitted to Ohio EPA by Grow Ohio on March 17, 2021 demonstrated no constituents in the sample analyzed exceeded the Table 1 limits.
10. Grow Ohio shall analyze the dry distillers grain for the constituents listed in Table 2 so that Grow Ohio may determine the appropriate agronomic rate calculation and in compliance with the DSW LAMP.

Table 2: Agronomic Testing Parameters

Parameters (mg/kg)²
Ammonia nitrogen
Total Kjeldahl nitrogen
Total phosphorus
Total potassium

² Use EPA 351.2 for nitrogen testing, SM 4500-P for phosphorous testing, and EPA 6010C/3050A for potassium testing

STORAGE CONDITIONS

11. Grow Ohio shall use Best Management Practices when storing dry distillers grain at the Site. The Best Management Practices shall include, at a minimum, all the following:
 - a. Minimizing the exposure of dry distillers grain sludge to rain, snow, snowmelt, and runoff throughout the storage, processing, and staging of the dry distillers grain (including loading and unloading, cleaning, and maintenance operations);
 - b. The use of grading, berming, or curbing to prevent dry distillers grain runoff and divert run-on away from storage areas;
 - c. Providing and maintaining a 50-foot undisturbed natural buffer around surface waters of the state, directing storm water to vegetated areas to increase sediment removal and maximize storm water infiltration;
 - d. Locating all dry distillers grain storage areas at least 300 feet from occupied buildings unless a reduction in this distance is approved, in writing, by the landowner and, if applicable, the resident of the occupied building;
 - e. Locating all dry distillers grain storage areas at least 300 feet from public water system and private wells and surface waters used for drinking water or watering livestock and at least 100 feet from other surface waters of the state as defined in ORC Section 6111.01(H);
 - f. Unless otherwise provided in a permit issued under ORC Chapter 6111, create surface water diversions to catch any solids in runoff and to divert runoff away from waters of the state at each site where dry distillers grain is stored on land;
 - g. Taking measures to control fugitive dust and other air emissions that may result from activities authorized through this LAMP Permit;
 - h. Not storing dry distillers grain in areas that are either over or within a sensitive groundwater area, including any of the following:
 - i. Karst terrain;
 - ii. A sand and gravel pit;
 - iii. A limestone or sandstone quarry;
 - iv. A drinking water source protection area with less than ten feet of low permeability clayey glacial till between the bottom of the fill material and the ground water;

- v. An aquifer designated on an Ohio Department of Natural Resources Ground Water Resources map for the county in which the land application activity will take place as capable of yielding one hundred gallons-per minute or more, which has less than ten feet of separation between the bottom of the fill material and the ground water.
12. Except for storage as authorized by Condition 11, Grow Ohio shall obtain a permit to install and any other applicable authorization from Ohio EPA Division of Surface Water prior to storing dry distillers grain.
 13. Grow Ohio may only store dewatered dry distillers grain at the Site for up to 180 days.
 14. By April 1 of each calendar year, Grow Ohio shall store no more dry distillers grain than what was land applied in the previous calendar year as reported in Condition 18a.

LAND APPLICATION CONDITIONS

15. Grow Ohio shall land apply dry distillers grain at an application rate where the Total Nitrogen applied shall not exceed 32,150 pounds per acre when used in combination with biosolids permitted in the DSW LAMP. The dry distillers grain shall be placed on the ground in trenches, evenly distributed and adequately covered with overburden.
16. Grow Ohio shall use Best Management Practices when applying dry distillers grain on the ground for agronomic benefit pursuant to this LAMP Permit including, at minimum, all of the following:
 - a. Dry distillers grain shall not be land applied within 300 feet of public water system wells and surface waters used for drinking water or watering livestock or within 100 feet of wells and surface waters used for drinking water or watering livestock if there is a 100-foot grass buffer between the land application area and wells and surface waters used for drinking water or watering livestock;
 - b. Dry distillers grain shall not be land applied within 33 feet of surface waters of the state that are not referenced in Condition 15.a;
 - c. Measures shall be taken to control fugitive dust and other air emissions that may result from activities authorized through this LAMP Permit.

RECORD KEEPING AND REPORTING

17. The following records shall be maintained by Grow Ohio for a minimum of five years after the land application of dry distillers grain pursuant to this LAMP Permit, and shall be made available to Ohio EPA upon request:
 - a. Records of the annual volume of dry distillers grain generated for land application and the volume of dry distillers grain land applied annually for each method of land application;
 - b. All laboratory reports of all sampling results and analyses;
 - c. Documentation demonstrating that the dry distillers grain is not a hazardous waste as defined by ORC Section 3734.01, OAC Rule 3745-50-10(A), and OAC Rule 3745-51-03.
18. Not later than April 1st of each year Grow Ohio shall submit to Ohio EPA an annual report. Grow Ohio shall send the annual report to the web address listed in Condition 19 of this Permit, and shall include the following information for the previous calendar year:
 - a. Volume of dry distillers grain land applied under this Permit;
 - b. Volume of dry distillers grain stored for land application under this Permit as of the date of the annual report; and
 - c. Results of sampling analyses of dry distillers grain land applied under this Permit.
19. Unless otherwise directed by Ohio EPA in writing, Grow Ohio shall submit the annual report via the Division of Materials of Waste Management's virtual dropbox: https://fileshare.epa.ohio.gov/filedrop/co_dmwm_submittals

GENERAL OPERATING CONDITIONS

20. Grow Ohio shall store and land apply dry distillers grain only in a manner that neither creates a nuisance nor adversely affects public health or safety or the environment. The Director may revoke this Permit if the Director determines that a nuisance condition or a threat to human health, safety, or the environment exists. Immediately upon the effective date of any written notification from the Director of revocation of this Permit, Grow Ohio shall cease land application under this LAMP Permit. The Director may require Grow Ohio to remove the material, remediate the site, or to take other action as appropriate to eliminate the nuisance or threat.
21. Grow Ohio shall conduct all activities in compliance with all federal, state, or local laws, ordinances, or regulations pertaining to environmental protection, including

but not limited to the control of air pollution, leachate, and storm water run-on and run-off and protection of groundwater and surface water.

22. Nothing in this LAMP Permit shall be construed as a waiver from the requirements of ORC Chapter 3734 or the regulations promulgated thereunder, except as expressly provided herein. This LAMP Permit shall not be interpreted to release Grow Ohio from responsibility under ORC Chapters 3704, 3734, or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.
23. Grow Ohio shall not cause pollution or place or cause to be placed any dry distillers grain where it causes pollution to any waters of the state, except in accordance with an effective National Pollutant Discharge Elimination System permit. Any unauthorized discharge to waters of the state shall be reported to Ohio EPA within 24 hours of discovery.
24. Grow Ohio shall provide written notice to the Director within seven days of discovering noncompliance with this LAMP Permit.
25. The Director may add, delete, or change any conditions of this LAMP Permit to protect public health or safety or the environment.
26. Grow Ohio shall furnish to the Director, or an authorized representative of Ohio EPA, within 30 days of receiving a written request, any information that the Director or an authorized representative of Ohio EPA requests to determine whether cause exists for revoking coverage under or determining compliance with this LAMP Permit.
27. This LAMP Permit and the authorization to land apply dry distillers grain shall expire at midnight on the expiration date shown above. In order to receive authorization to land dry distillers grain beyond the above date of expiration, Grow Ohio shall submit such information and forms as are required by Ohio EPA not later than 180 days prior to the above date of expiration.
28. Grow Ohio shall allow the Director or an authorized representative of Ohio EPA to enter upon the property where Grow Ohio stores or has placed dry distillers grain, conducts other activities under this LAMP Permit, or retains records under the terms and conditions of this LAMP Permit, for the following purposes:
 - a. To inspect and copy records that must be kept under the terms and conditions of this LAMP Permit.
 - b. To collect samples, perform monitoring, take photographs, perform measurements, surveys, and other tests; and inspect at reasonable

times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this LAMP Permit.

- c. For all other purposes for which the Director or an authorized representative of Ohio EPA has rights of access or inspection authority under applicable law.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC Section 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
30 East Broad Street, 4th Floor
Columbus, Ohio 43215

Questions concerning this LAMP Permit should be directed to Ohio EPA's Beneficial Use Unit at (614) 644-2621.

Sincerely,



Laurie A. Stevenson
Director

LS/MU