

**DEPARTMENT OF AGRICULTURE  
DELAWARE NUTRIENT MANAGEMENT COMMISSION**

Statutory Authority: 3 Delaware Code, Section 101(2) and (3); 29 Delaware Code, Sections 8103(8) and 10119) (3 **Del.C.** §101(2) & (3) & 29 **Del.C.** §§8103(8) & 10119)  
3 **DE Admin. Code** 1201

**EMERGENCY**

**ORDER**

**1201 Nutrient Management Certification Regulations**

**WHEREAS**, the Department of Agriculture (the "Department") has been charged by the Delaware legislature pursuant to 3 Del. C. § 101(2) & (3) with the power to devise and execute measures necessary for the development of the agricultural interests of the State and to make and adopt rules for the government of the Department of Agriculture; and

**WHEREAS**, the Centers for Disease Control and Prevention has determined that a novel coronavirus ("COVID-19") presents a serious public health threat, and on March 12, 2020 the Governor declared a State of Emergency due to the public health threat of COVID-19, which the Governor has since modified (the "COVID-19 State of Emergency"); and

**WHEREAS**, many Delaware poultry growers recently experienced catastrophic poultry mortalities, necessitating the implementation of a treatment system to adequately complete the composting of catastrophic poultry mortalities intended for future land application; and

**WHEREAS**, to provide an adequate supply of grown chickens to the poultry processing plants during the COVID-19 State of Emergency, Delaware poultry growers must be able to deviate from the State Technical Standards pertaining to Temporary Field Staging, Animal Mortality Facility, and Manure Incorporation that are incorporated by reference into the Delaware Nutrient Management Commission's regulations at 3 *Del. Admin.* § 1201.3.0; and

**WHEREAS**, the Secretary finds that adoption of an emergency regulation to govern the deviation from the State Technical Standards must occur on an emergency basis in order to properly protect the agricultural interests of the State during the COVID-19 State of Emergency; and

**WHEREAS**, the Secretary will accept, consider and respond to petitions by any interested person for the reconsideration or revision of this regulation by addressing the same to the attention of Delaware Nutrient Management Commission, Department of Agriculture, 2320 South DuPont Highway, Dover, Delaware 19901; and

**WHEREAS**, in accordance with the provisions of 29 Del. C. § 10119(3), this Order shall be effective for 120 days from the date of execution and may be renewed once for a period not exceeding 60 days; and

**WHEREAS**, a copy of this Order will be submitted to the Registrar for publication in the next issue of the *Delaware Register of Regulations*.

**NOW, THEREFORE, IT IS ORDERED** this 13<sup>th</sup> day of May 2020 that the following "COVID-19 Emergency Provisions for Nutrient Management Program" shall take effect immediately.

**1.1 COVID-19 Emergency Provisions for Nutrient Management Program.**

The prohibition under the Temporary Field Staging, Animal Mortality Facility, and Manure Incorporation State Technical Standards against field staging or land applying uncured compost shall be suspended so long as such movement complies with the following directives:

**1.1.1. Site selection.**

The area for stockpiling should be well-drained with no standing water. Delaware regulations require that the specific field location of the poultry litter pile be used no more than once every two years, be located on high ground, and adhere to the following setback requirements:

**1.1.1.1 100 feet from any public road and any surface water; and**

**1.1.1.2 200 feet from any home not located on the property and any domestic well; and**

**1.1.1.3 300 feet from any public water supply well.**

**1.1.2 Pile construction.**

Proper piling, covering, and securing of composted material will improve the composting process and lessen the chances of odors, flies, and scavengers. Piles must adhere to the following requirements:

**1.1.2.1 The base of the pile should have a 4" to 6" base of carbon or dry litter, free of compost material, that will serve to minimize leachate or seepage issues; and**

**1.1.2.2 The pile is to be conical in shape and should be no taller than 6' high with a base that should be 12' to 14' wide; and**

- 1.1.2.3 The pile is to be capped with manure or carbon to insulate composting heat and ensure coverage of remaining tissue; and
    - 1.1.2.4 The pile is to be covered with tarpaulin or compost fleece with the cover secured to withstand weather.
  - 1.1.3 Maintenance

Compost material may be in a state of decomposition requiring more than a single composting heat. As such, following the initial two-week heat, the pile may need to be mixed and reformed onsite or in an adjacent pile according to the approved field staging regulations for manure.
  - 1.1.4. Duration

Delaware regulations authorize temporary field staging to occur for up to 120 days, but authorization for longer periods (up to 180 days) will be permitted on a case by case basis. This will allow the compost material to be best utilized as a soil amendment. Any farmer or landowner that is likely to have composting material field staged for a period longer than 120 days must obtain written permission from the Delaware Department of Agriculture at least 5 days before the expiration of the staging period.
  - 1.1.5 Mitigation of negative impacts

When moving partially composted material from the poultry house to field storage, careful site selection should be made to mitigate negative impacts of odor, flies, scavengers and adverse aesthetics near or in view of the pile.
  - 1.1.6 Hauling of composted material without spillage.

When moving partially composted material from the poultry house to field storage, material needs to be hauled and delivered without spillage by covering loads to prevent manure loss.

APPROVED this 13<sup>th</sup> day of May 2020.

Michael T. Scuse  
Secretary of Agriculture

**23 DE Reg. 964 (06/01/20) (Emer.)**