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States' Application Restrictions Statutes & Regulations: *Delaware*



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States' Application Restrictions Statutes & Regulations:
Delaware

3 DE Code § 2201
3 DE Code § 2242
3 DE Admin. Code 1201-6.0 (6.2)

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Delaware Legislative Council.

3 DE Code § 2201. Declaration of purpose.

The purposes of this chapter are:

- (1) To regulate those activities involving the generation and application of nutrients in order to help improve and maintain the quality of Delaware's ground and surface waters and to meet or exceed federally mandated water quality standards, in the interest of the overall public welfare;
- (2) To establish a certification program that encourages the implementation of best management practices in the generation, handling or land application of nutrients in Delaware;
- (3) To establish a nutrient management planning program; and
- (4) To formulate a systematic and economically viable nutrient management program that will both maintain agricultural profitability and improve water quality in Delaware.

3 DE Code § 2242. Certification; applications.

- (a) Applications for certification shall be made to the Commission in writing on a form designated by the Commission.
- (b) The Commission shall develop and approve minimum criteria for certification, which shall be included in regulations promulgated by the Secretary.
- (c) The Commission may establish by regulation a yearly fee not to exceed \$100 for each certificate.



(d) If the Commission finds the applicant qualified to handle nutrients in the classifications the applicant has applied for, the Commission may issue a certificate limited to the classifications for which the applicant is qualified. The Commission may limit the certificate of the applicant based on any subclassification the Commission has established. If a certificate is not issued as applied for, the Commission shall inform the applicant in writing of the reasons therefor.

3 DE Admin. Code 1201-6.0. Nutrient Handling Requirements.

6.1 As required by 3 Del.C. § 2201 et.al, Nitrogen and Phosphorus fertilizers shall be applied according to an approved Nutrient Management plan.

6.2 For land areas not required to have a Nutrient Management plan, applications of Nitrogen and Phosphorus fertilizers by anyone holding a commercial nutrient handler or nutrient consultant certification, or anyone required to be certified at said level pursuant to 3 Del.C. § 2242 and Section 4.0 herein, are prohibited when one of the following conditions exist:

6.2.1 The surface area of application is impervious such as sidewalks, roads and other paved areas and the misdirected fertilizer is not removed on the same day of application;

6.2.2 The surface area is covered by snow or frozen; or

6.2.3 The date of application is between December 7 and February 15.

6.3 Nutrient Storage and Staging Requirements

6.3.1 For any person required to develop and implement a nutrient management plan and who stores, handles, or stages any manure in any area that may be exposed to rainfall, the following requirements must be met.

6.3.2 Any outdoor storage of manure within the production areas, or staging within the application areas must be the result of exhausting manure storage structure space available by the nutrient generator or nutrient applicator of such manure. Stockpiling must be performed in accordance with State Technical Standards.

6.3.3 Any outdoor stockpiling of poultry manure within the production area or any area other than the application area will be limited to 14 days without a cover.

6.3.4 Any outdoor temporary field staging of poultry manure within the application area will be limited to 90 days.



6.3.4.1 Authorization for exceeding the 90 day time period may be granted on a case by case situation if approved by the nutrient consultant and reported to the nutrient management program administrator. Please refer to State Technical Standards.

6.3.5 In order to prevent discharges of pollutants to surface waters, any outdoor staging of poultry manure within the application area shall be handled according to the following:

6.3.5.1 The manure must be at least 6 feet high and in a conical cross section shape; and

6.3.5.2 Poultry litter manure shall not consist of more than 5% crust out material; and

6.3.5.3 The selection of the staging site must consider the highest, most practical site possible and shall not use the same site more than once every two years (unless allowable under conditions as described in the State Technical Standards). Refer to State Technical Standards; and

6.3.5.4 The staging site must be located at least 100 feet from a public road, 100 feet from any surface water and 200 feet from any residence not located on the property; and

6.3.5.5 The staging site must be at least 200 feet from a domestic well and 300 feet from a public water supply well; and

6.3.5.6 Post litter removal treatment must include the removal of all litter and the top 1-2 inches of topsoil if the topsoil is co-mingled with the litter to prevent nutrient loads; and

6.3.5.7 A production crop or vegetative cover crop must be established and maintained at the staging site as soon as practical following post removal treatment.

