

Title 15 DEPARTMENT OF AGRICULTURE

Subtitle 20 SOIL AND WATER CONSERVATION

Chapter 05 Manure Transportation Project

Authority: Agriculture Article, §8-704.2, Annotated Code of Maryland

.01 Scope.

A. This chapter describes the Department's voluntary Manure Transportation Project required by the Maryland Water Quality Improvement Act of 1998. The project is intended to facilitate the transport of poultry litter and livestock manure from farms in all areas of the State that are subject to phosphorus overenrichment.

B. This project is intended to encourage voluntary participation to remove or redirect at least 20 percent of the poultry litter produced in Dorchester, Somerset, Wicomico, and Worcester counties.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Alternative uses" means when a person uses litter or other animal manure in environmentally acceptable ways, as determined by the Department, other than by direct land application in an unprocessed form.

(2) "Commercial poultry producer" means an entity that contracts with a farmer to raise poultry for the producer on property owned or leased by the farmer.

(3) "Cost-share" means a grant from the Department for the purpose of handling and transporting manure from a farm in any area of the State that the Department determines is subject to phosphorus overenrichment.

(4) "Department" means the Maryland Department of Agriculture.

(5) "Eligible cost" means a cost that the Department determines is necessary for the transport and handling of manure.

(6) "Fertility index value" means an index used to describe the relative availability of a nutrient to a plant or crop.

(7) "Manure" means the fecal and urinary excretion of poultry and livestock, including poultry litter and materials used as bedding.

(8) "Manure broker" or "broker" means a person approved by the Department who moves, arranges, or otherwise acts as the intermediary in the movement of manure from an eligible producer to a person meeting the eligibility requirements to receive manure provided in this chapter.

(9) "Nutrient management plan" means a plan prepared by a certified nutrient management consultant or certified farm operator to manage the amount, placement, timing, and application of animal manure, fertilizer, biosolids, or other plant nutrients in order to:

(a) Minimize nutrient loss or runoff; and

(b) Maintain the productivity of soil when growing agricultural products.

(10) "Phosphorus overenriched soil" means soil that tests with a FIV value of 150 or greater and posing a water quality risk as determined by the Department.

(11) "Pooling agreement" means a written agreement between persons, approved by the Department, to:

- (a) Facilitate the transport of poultry and livestock manure under the project; and
- (b) Meet the requirements of the project.

(12) "Poultry litter producer" means a person who:

- (a) Is under contract with a commercial poultry producer; and
- (b) Generates litter from poultry.

(13) "Producer" means a person who generates manure from animal production.

(14) "Project" means the Manure Transportation Project.

(15) "Soil having the capacity to hold additional phosphorus" means, as determined by the Department, the capability of soil to tie up or retain increased amounts of phosphorus without release or movement from the soil or soil medium into the waters of the State.

(16) "Stackable manure" or "stacked manure" means manure having less than an average of 60 percent moisture or less and having physical properties to be unloaded and arranged into a stable pile.

.03 Cost-Share Program — Eligibility.

A. A person engaged in an agricultural operation is eligible to participate in the project if the operation produces poultry or livestock manure and as determined by the Department has:

- (1) An amount of cropland that is insufficient to use all manure produced on the farm for crop production, based on the nutrient content in the manure and soil fertility levels as determined in a nutrient management plan prepared for the farm; or
- (2) Land identified as being phosphorus overenriched.

B. Receipt of cost-share assistance under this program will not be used by the Department for the purpose of calculating the per-farm limit of any cost-share eligibility under Agriculture Article, §8-701 et seq., Annotated Code of Maryland.

C. A person is eligible to participate in the project if that person has the ability to use manure for alternative uses, or to use manure as a source of plant nutrients, if the manure is applied according to a nutrient management plan meeting State regulatory requirements under the following conditions:

(1) For soil testing less than 101 for phosphorus on the fertility index value, a person shall use manure according to a nitrogen-based nutrient management plan;

(2) For soil testing 101 to 150 for phosphorus on the fertility index value, a person shall use manure according to a nutrient management plan using phosphorus as a limiting factor.

D. A poultry litter producer may not transport manure less than 7 miles from a production or storage site to a receiving operation unless all of the following requirements are met:

- (1) Manure is transported to a farm not owned or managed by the producer;
- (2) The land of the agricultural operation receiving the manure is not phosphorus overenriched; and

(3) The manure is applied in compliance with this chapter.

E. A person other than a poultry litter producer may participate in the project if that person:

(1) Meets the eligibility criteria set forth in §A of this regulation;

(2) Manages land within 1 mile of the production or storage site that is overenriched with phosphorus, as determined through the use of a nutrient management plan;

(3) Applies manure in compliance with this chapter; and

(4) Transports manure either:

(a) To land owned or managed by the person if that land is more than 1 mile from their production or storage site; or

(b) To a farm not owned or managed by the producer.

F. Before any manure is transported, an applicant shall test the manure as directed by the Department.

G. An agricultural operator receiving manure for land application shall provide a delivery site for the off-loading of the manure that:

(1) Is safe; and

(2) Does not pose any undue environmental risk to water quality as determined by the Department.

H. The agricultural operator shall:

(1) Apply manure upon receipt;

(2) Apply stacked manure within 7 days of its receipt according to a nutrient management plan;

(3) Stockpile or store manure in a manner that protects it from rainfall, runoff, or leaching, and if the manure is stockpiled or stored for 6 months or longer, perform an additional nutrient analysis for the manure as close as possible to the plant nutrient application period as provided in a nutrient management plan; or

(4) Apply manure that is not stackable upon receipt or store it in a manner that protects it from rainfall, runoff, or leaching.

I. A person who uses or processes manure for an alternative use to create value or products produced from manure shall provide the Department with the following information:

(1) Documentation regarding planned use or treatment of any nutrient-enriched by-products produced from the processing;

(2) Documentation of proof of compliance and evidence that all applicable permits or approvals to operate a facility have been obtained;

(3) Documentation, if not covered by a permit, regarding efforts to minimize environmental impacts during the manufacturing or processing of products containing manure;

(4) The location of a delivery site for the off-loading of manure that is safe and does not pose any undue environmental risk to water quality as determined by the Department;

(5) The location and manner of the storage or stockpile of manure stored protects it from rainfall, runoff, or leaching; and

(6) Documentation that a performance bond or other security, as provided under Regulation .07 of this chapter, has been obtained.

J. Only one of the following is eligible to apply for and receive State cost-share assistance: a producer, manure broker, an approved alternative user, or manure receiver. However, a producer or a broker shall apply for assistance only under a pooling agreement with the receiver.

K. An applicant, producer, manure broker, alternative user, or transporter who participates in the project shall comply with all departmental biosecurity and public safety requirements, including the following:

(1) All poultry litter transported shall be covered while on a public road or highway;

(2) A truck-mounted or a tractor-drawn spreader shall be covered during the transportation of poultry litter from one farm to another unless the farms are contiguous;

(3) A transport vehicle, including any application equipment, shall contain the manure within the cargo area without any loss of material or liquid during transport on a public road;

(4) Before operating on or near another poultry or livestock operation, all transporting and handling equipment used to facilitate the transportation of manure shall be cleaned, washed, and disinfected;

(5) All Departmental animal health requirements shall be met; and

(6) A producer may not transport or offer for transport poultry litter containing dead birds that are not composted completely.

.04 Cost-Share Rate.

A. Expenses eligible for State cost-share for an applicant shall be established by the Department based on the following:

(1) Either mileage or distance, or both, of manure transported;

(2) Amount of manure transported;

(3) Mode of transportation;

(4) Cost of analyzing manure before transporting;

(5) Cost of loading manure on transportation equipment;

(6) Cost of hauling manure from a producing or storage area to a receiving area; and

(7) Amount of matching cost-share funds to transport poultry litter provided by a commercial poultry producer for eligible costs, and the State's share as determined by the Department. The Department will consider factors including but not limited to the following when establishing the match:

(a) The amount of funds a commercial poultry producer has committed to provide during the fiscal year;

(b) The amount of current fiscal year funds from the commercial poultry producer as yet to be committed or available for use by a poultry litter producer;

(c) The amount of State funds available for the project; and

(d) Poultry litter producer demand for project funds.

B. The Department may provide additional cost-share funds for the transport of poultry litter from Dorchester, Somerset, Wicomico, or Worcester counties to other areas of the State or for alternative uses other than direct land application in these counties, subject to §C of this regulation.

C. The maximum amount of eligible cost-share for transportation of poultry litter under this chapter is the total of eligible expenses.

D. The maximum amount of cost-share under this chapter for the transport of animal manure other than poultry litter is up to 87.5 percent of eligible expenses.

E. The Department may not provide cost-share for any repeated transportation of the same manure, unless a participant can successfully demonstrate to the Department that the transportation is:

- (1) To or from a staging area or centralized collection facility; and
- (2) Cost effective.

F. If a manure broker stockpiles or stores manure, the broker may apply for cost-share funds for transporting the manure. However, the manure broker is eligible only to receive payment for the mileage directly from the producer to the receiver.

.05 Cost-Share Program—Commercial Poultry Producer Participation.

A. The Department shall enter into a written agreement with each commercial poultry producer participating in the project. The written agreement shall set forth, at a minimum, the following:

- (1) The responsibilities of the participating commercial poultry producer;
- (2) The responsibilities of the Department;
- (3) The amount of financial support for payment of eligible costs that the participating commercial poultry producer shall provide to the project on an annual basis;
- (4) The manner by which the Department shall calculate and collect eligible costs from the participating commercial poultry producer; and
- (5) An express commitment by the participating commercial poultry producer that it may not:
 - (a) Pass on part or all of its project participation costs to any poultry litter producer with which it contracts, or
 - (b) Penalize a poultry litter producer for participating in the project.

B. The Department shall maintain the written agreements and all supporting documentation in a centralized location, open to public inspection during regular business hours.

.06 Cost-Share Program — Manure Broker Participation.

A. A manure broker participating in the project shall:

- (1) Obtain manure only from an eligible producer; and
- (2) Except as provided under §B of this regulation, directly transport the manure only to an eligible receiver.

B. A manure broker has the option of stockpiling or storing manure if the broker:

(1) Stockpiles or stores manure in a manner, approved by the Department, that protects the manure from rainfall, runoff, or leaching;

(2) Provides a delivery site for off-loading manure that does not pose any undue environmental risk to water quality, as determined by the Department;

(3) Transports stockpiled manure only to an eligible receiver;

(4) Maintains for a minimum of 3 years inventory records which show the:

(a) Name of the producer and the amount of manure obtained from that producer,

(b) Name of the manure receiver and the amount of manure transported to that receiver, and

(c) Amount of manure stored or stockpiled;

(5) Allows the Department to review inventory records during normal business hours;

(6) When combining, mixing, or blending manure from more than one producer:

(a) Collects a representative sample from the combined, mixed, or blended manure, and

(b) Obtains a new nutrient analysis for this manure as directed by the Department, before and as close as possible to the date the manure is transported to a receiver;

(7) Provides proof of compliance and evidence that all applicable permits or approvals to operate a facility to store or stockpile manure have been obtained; and

(8) Obtains a performance bond or other security, as provided under Regulation .08 of this chapter.

.07 Cost Share Program — Alternative Use.

A. A person using an alternative use in a project shall:

(1) Use Departmental forms to apply and enter into an agreement with the Department;

(2) Obtain manure only from an eligible producer;

(3) Use poultry litter or manure in an environmentally acceptable way, as determined by the Department, other than by direct land application in an unprocessed form;

(4) Provide proof to the Department of compliance and evidence that all applicable permits or approvals to operate a facility and to store or stockpile manure have been obtained;

(5) Provide a delivery site for the off-loading of poultry litter or manure that:

(a) Allows for the safe handling of poultry litter or manure; and

(b) Does not pose any undue environmental risk to water quality, as determined by the Department;

(6) Stockpile or store manure in a manner, approved by the Department, that protects the manure from rainfall, runoff, or leaching;

(7) Allow a Department representative, during normal business hours, to inspect and to have access to the stockpile, storage area, and place of business where records are kept, to determine compliance;

(8) Obtain a performance bond or other security, as provided under Regulation .08 of this chapter; and,

(9) Maintain inventory records for at least 3 years, showing:

(a) The name of the producer who provided the poultry litter or manure, including address, telephone number, and property account identification number used by the Maryland Department of Assessments and Taxation to indicate the location of the producer;

(b) The amount of poultry litter or manure obtained from that producer;

(c) The amount of poultry litter or manure stored daily and amount of each type of product or byproduct processed or produced daily;

(d) The amount of commodities or additives blended or processed;

(e) The name of the receiver or receivers of the product or byproduct produced, including address, telephone number, and location; and

(f) The amount of product or byproduct shipped to each receiver.

B. Cost-share rates are established in Regulation .04 and the payment to an alternative user shall be based on:

(1) Transporting poultry litter or manure either:

(a) From an eligible operation to an alternative use facility; or

(b) From the alternative user's facilities to the receiving operation; and

(2) The lesser of the litter or manure tonnage from the producer to the alternative user's facility, or the tonnage from the alternative user's facility to the receiver.

.08 Bond or Security.

A. The broker or alternative use participant shall file with the Department a bond, or other security, on a form satisfactory to the Department. The bond shall be payable to the Department, and the obligation of the bond shall be conditioned upon fulfilling the cost-share agreement and manure stockpiling and storage requirements provided in this chapter.

B. The Department may waive the bonding and security requirements for a participant if the participant:

(1) Stockpiles 500 tons of manure or less; and

(2) Has contingent plans to relocate the manure, which are provided and acceptable to the Department.

C. An acceptable security or bond is limited to:

(1) A bond in a form satisfactory to the Department and underwritten by a surety company authorized to do business in this State;

(2) A bank certified check, bank cashier's check, or bank treasurer's check equal to the required bond amount;

(3) Pledges of securities backed by the full faith and credit of the United States Government, or bonds issued by the State, having a market value equal to the required bond amount; or

(4) An irrevocable letter of credit that is:

(a) In a form satisfactory to the Department,

(b) Issued by a financial institution approved by the State,

(c) Equivalent to the required bond, and

(d) Guaranteed to be available and payable directly to the State on demand, in the event of forfeiture.

D. The bond liability required under this regulation shall terminate 2 years after the:

(1) Participation in the project ceases;

(2) Stockpiling or storing manure ceases; or

(3) Bond is canceled.

E. The bond amount shall be the estimated cost of remediation if, in the event of forfeiture:

(1) Manure must be removed from the stockpile site;

(2) Manure must be protected from rainfall, runoff, or leaching, until such time that it can be removed from the stockpile or storage site because of failure to stockpile it in a manner approved by the Department; or

(3) The stockpile or storage site must be cleaned up or reclaimed because of failure to stockpile or store the manure in a manner approved by the Department, or as otherwise required under this chapter.

F. The bond amount shall be based on, but not limited to, the quantity of manure stockpiled or stored.

G. The obligation of the broker, alternative use participant, and any corporate surety under the bond shall become due and payable, and all or any part of any cash or securities shall be applied to payment of the costs of remediation, including, but not limited to, stabilizing, protecting, and removing the manure, and cleaning up or reclaiming the storage site, if the Department has:

(1) Notified the broker or alternative use participant and any corporate surety that the requirements imposed under this chapter for stockpiling or storing manure have not been fulfilled, and specified in the notice the particular deficiencies;

(2) Given the broker or alternative use participant and any corporate surety a reasonable opportunity to correct the deficiencies; and

(3) Determined that, at the end of a reasonable length of time, some or all of the deficiencies specified remain uncorrected.

.09 Project — Annual Reporting.

On or before July 1 of each year, the Department shall submit to the General Assembly a report detailing the:

A. Participation levels in the project;

B. Total amount of manure transported to and from each county in the State; and

C. Amount of funds distributed by the State and each participating commercial poultry producer for the preceding year.

.10 Compliance Provisions.

If a person fails to comply with the requirements of this chapter, or any agreement established under this chapter, the Department may:

- A. Exclude that person from future participation in the project; and
- B. Hold the person liable for the full amount of funds paid.

Administrative History

Effective date:

Regulations .01—.07 adopted as an emergency provision effective January 7, 1999 (26:3 Md. R. 174); adopted permanently effective April 5, 1999 (26:7 Md. R. 546)

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