

**DEPARTMENT OF AGRICULTURE**  
**OFFICE OF THE SECRETARY**

Statutory Authority: 3 Delaware Code, Chapters 1 and 71 (3 **Del.C.** Chs. 1 & 71)

**EMERGENCY**

**ORDER**

**102 Secretarial Powers**

**In Re: EMERGENCY RULE FOR DEPARTMENT OF AGRICULTURE RESPONSE TO AVIAN INFLUENZA AND OTHER  
CONTAGIOUS OR INFECTIOUS ANIMAL DISEASES - Final Order**

**WHEREAS**, there has been a recent diagnosis of highly pathogenic avian influenza (HPAI) in poultry within the State of Delaware including in small backyard flocks; and

**WHEREAS**, the Department of Agriculture has the power to abate, suppress, eradicate and prevent the outbreak of HPAI, a contagious, infectious and injuriously dangerous disease that has affected poultry in the State of Delaware (3 **Del.C.** §101(1) and §7101); and

**WHEREAS**, the Department of Agriculture has authority to take measures necessary to control disease in and ensure the welfare of poultry, as well as horses, cattle, cultured aquatic stock and other farm animals; (3 **Del.C.** §101(8)); and

**WHEREAS**, the Department of Agriculture has authority to devise and execute measures necessary to mitigate disease occurrences in animal species, if such disease is able to affect poultry or livestock, or is capable of causing disease in humans. (3 **Del.C.** §101(9)); Chapter 73, Chapter 74, and Chapter 81); and

**WHEREAS**, the Department seeks to amend Title 3 to add a new Section 102 to clarify the circumstances under which the Secretary may issue emergency orders in conjunction with the suppression or eradication of contagious, infectious, and dangerous diseases affecting poultry and other animals; and

**WHEREAS**, the Department 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 Secretary Michael T. Scuse, Delaware Department of Agriculture, 2320 South DuPont Highway Dover, DE 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 4th day of October, 2022 that the following "Amendment to the Delaware Department of Agriculture Rules" shall take effect immediately.

Delaware Department of Agriculture  
Michael T. Scuse  
Cabinet Secretary

**102 Secretarial Powers**

**1.0 Authority**

This regulation is written under the authority of Title 3, Chapters 1 and 3, and Sections 101 and 302; and Chapter 71 Sections 7101 and 7104 of the **Delaware Code.**

**2.0 Authority of Secretary To Prevent Spread of Contagious or Infectious Diseases**

2.1 In order to prevent the spread of contagious or infectious diseases, the Secretary, or the Secretary's agent, may:

- 2.1.1 Visit at any time the location in any county where the Secretary has reason to believe any contagious or infectious disease may exist;
  - 2.1.2 Test any animal for any contagious disease by any method;
  - 2.1.3 Order every animal which has been exposed to a contagious or infectious disease to be isolated in the manner deemed necessary to prevent the spread of the disease;
  - 2.1.4 Order any location where any contagious or infectious disease has existed or presently exists to be quarantined, so that no domestic animal of the same species may be removed from or brought to the quarantined premises until it is properly disinfected;
  - 2.1.5 Issue any order deemed necessary or expedient to prevent the communication of any contagious or infectious disease from the quarantined area;
  - 2.1.6 Issue any order requiring the destruction of any animal infected with or exposed to an infectious or contagious disease, and for the proper destruction of its hide or carcass, and any object which might carry infection or contagion;
  - 2.1.7 Issue an order requiring disinfection of every building, premises, vehicle, and every object which may breed or convey any infectious or contagious disease;
  - 2.1.8 Destroy any building or article that is contaminated and incapable of proper disinfection;
  - 2.1.9 Modify, cancel, or withdraw the terms of any order the Secretary issues pursuant to this subtitle; and
  - 2.1.10 Institute a livestock patrol along the State borders to prevent any livestock affected with any contagious or infectious disease from being brought into the State contrary to the laws regulating shipment of livestock into the State.
- 2.2 The owner or his agent shall secure the animal to make it possible for the Secretary or his agent to apply any test.

**26 DE Reg. 351 (11/01/22) (Emer.)**