



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**
RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

March 2, 2026

Scott Thompson
Vice President, Operations Services
Mountaire Farms of Delaware, Inc.
29292 John J. Williams Highway
Millsboro, DE 19966

**RE: Temporary Emergency Variance Authorization Letter for Additional Freeboard
Utilization and Wet Weather Spray Irrigation, Mountaire Farms of Delaware, Inc.
State Permit No. 359191-06**

Dear Mr. Thompson:

On March 2, 2026, the Division of Water, Delaware Department of Natural Resources and Environmental Control (the Department) received Mountaire Farms of Delaware, Inc.'s (Mountaire's) request for a temporary emergency variance under 7 Del. C. § 6012 from limitations set forth in Mountaire's State Permit (No. 359191-06), Part III A.5 and A.17. Specifically, Mountaire is requesting the ability to temporarily reduce required freeboard to be maintained in the facility's two storage lagoons from two feet to one foot of freeboard and to discharge treated wastewater (effluent) on Mountaire's spray fields during precipitation (i.e., wet weather) events and/or when saturated or frozen soil conditions exist on a temporary and limited basis.

Mountaire is requesting a variance from these two operational requirements because of the exceptional and unforeseeable amount of precipitation and snowfall Sussex County has received during the last several weeks leading to saturated wet conditions on Mountaire's spray fields. As a result of these precipitation events, Mountaire's two storage lagoons will reach their maximum freeboard levels allowable under Mountaire's State Permit (No. 359191-06). The elevated water levels in the lagoons are the result of Mountaire's commitment to not spray irrigating when fields are saturated or frozen in accordance with our Permit and 7 DE Admin. Code § 7101 6.3.2.3.5.7 and 6.3.2.3.13.11 (Delaware's *Regulations Governing the Design, Installation, and Operation of On-Site Wastewater Treatment and Disposal Systems*).

In response to the increased precipitation events and to maintain freeboard in the storage lagoons and avoid the need to spray during wet weather, Mountaire instituted several wastewater flow reduction and mitigation measures including the use of the facility's stormwater/off-spec wastewater lagoon to store/recycle treated wastewater and reduce wastewater flows entering the storage lagoons and the suspension of various operations in the processing plant to reduce water usage (including suspending processing operations for several days). Unfortunately, forecasts indicate a prolonged period of wet weather in the coming weeks. Therefore, Mountaire is seeking a temporary emergency variance to reduce the required lagoon freeboard to one foot and perform limited wet weather spray irrigation of effluent onto the saturated spray fields.

Since 2021, Mountaire has performed significant wastewater treatment system upgrades that have enhanced treated wastewater quality and resulted in approximately 30 million gallons of additional storage capacity. Mountaire's effluent Total Nitrogen monthly average concentration for the past five months is 2.41 mg/L (Permit Limit is 10 mg/L). In addition, Mountaire has also implemented groundwater mitigation efforts designed to prevent offsite migration of legacy elevated nitrogen in the groundwater. Therefore, the Department recognizes Mountaire's good faith efforts to comply with permit and regulatory requirements.

Mountaire is requesting a 60-day variance to temporarily reduce storage lagoon freeboard to one foot and to discharge treated wastewater (effluent) on Mountaire's spray fields during precipitation (i.e., wet weather) events and/or when soil saturation or frozen conditions exist. Please note that the reduction in freeboard is designed to limit amount of spray irrigation needed.

Based on the totality of the circumstances, the Department finds that the environmental harms of allowing Mountaire to utilize available lagoon freeboard and engage in limited, conditional wet weather spray irrigation are significantly less than the environmental harms that will result from repeated shutdowns of Mountaire's operations. Therefore, the Department has determined that Mountaire's request satisfies the requirements of 7 Del. C. § 6012, and the Secretary, in his discretion, is issuing this Temporary Emergency Variance Authorization Letter approving Mountaire's March 2, 2026 Temporary Emergency Variance Request, subject to the following conditions:

1. Mountaire will maintain at least one foot of freeboard, measured, measured vertically from the lowest point of the berm, for all storage lagoons. Freeboard shall be measured daily.
2. Mountaire will continue to minimize the need for wet weather spray operations and only implement wet weather spray operation when all other options for wastewater management during plant operations have been exhausted.

3. Based on forecast conditions, Mountaire will notify the Division of Water at least 24 hours in advance of the anticipated need for wet weather spray operations. Notification shall be in writing (email to John.Rebar@delaware.gov is sufficient) and include:
 - a. Current effluent quality data including 5-day average TN concentration, and current process control data;
 - b. Lagoon freeboard measurements;
 - c. Anticipated volume that will be sprayed during saturated conditions;
 - d. Proposed fields that will be utilized; and
 - e. Justification for the need to spray during saturated conditions.
4. Within five (5) days of wet weather spray activities, Mountaire shall submit in writing the following information:
 - a. Identification of the field(s) irrigated,
 - b. Volume of treated wastewater discharged to each spray field,
 - c. The time and duration of the discharge to each spray field, and
 - d. Inspection logs of field inspections during wet weather spray to assure no run-off conditions.
5. All buffer zone requirements as described in Mountaire's State Permit (No. 359191-06) must be maintained.
6. The spray fields must be maintained in such a manner as to prevent wastewater effluent runoff. If runoff conditions are observed, wet weather spray must cease immediately.
7. Mountaire will follow provisions proposed for wet weather spray operations as proposed in their March 2, 2026 Temporary Emergency Variance request letter including performing visual verification that no runoff is occurring at least twice daily during spray operations, and prioritizing operating on spray fields that are at a maximum distance from a receiving stream.
8. Mountaire must comply with all monitoring and reporting requirements as described in its State Permit (No. 359191-06). Monitoring must account for all discharges to the spray fields.
9. Pursuant to 7 Del. C. § 6012, this Temporary Emergency Variance shall be valid for 60 days from the effective date of this Authorization.
10. A Temporary Emergency Variance may be revoked at any time at the discretion of the Secretary. Furthermore, Mountaire's failure to comply with these conditions or any condition of its State Permit No. 359191-06 not expressly addressed by this Temporary Emergency Variance shall result in immediate revocation of this Variance as of the date of the non-compliance. Violation of any condition of this Temporary Emergency Variance is enforceable pursuant to Chapter 60 of Title 7 of the Delaware Code.

Temporary Emergency Variance Approval for Limited Freeboard Utilization and Wet Weather Spray Irrigation
Mountaire Farms of Delaware, Inc.
March 2, 2026

If you have questions regarding this matter, please feel free to contact John Rebar at (302) 739-9948 or via email at John.Rebar@delaware.gov.

Sincerely,



Gregory B. Patterson
Secretary