

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

2009 JUN 11 AM 10: 24

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative CITE AUTHORITY: Chapter 19 Article 29-6

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 27

TITLE OF RULE BEING PROPOSED: Best Management Practices for Land Application of Waste Products from  
Aquaculture Facilities

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 13, 2009 AT 12:00 Noon ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WVDA

1900 Kanawha Boulevard, East

Charleston, WV 25305

email: mstewart@ag.state.wv.us

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

TITLE 61  
LEGISLATIVE RULE  
DEPARTMENT OF AGRICULTURE

SERIES 27  
BEST MANAGEMENT PRACTICES FOR LAND APPLICATION OF WASTE PRODUCTS  
FROM AQUACULTURE FACILITIES

'61-27-1. General

- 1.1. Scope. – The rule establishes voluntary best management practices to prevent or minimize the entry of aquatic waste into the waters of the State and improving the soil and plant resources of this state.
- 1.2. Authority. – W. Va. Code '19-29-6
- 1.3. Filing Date. –
- 1.4. Effective Date. --
- 1.5. This is a new legislative rule.

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'61-27-2. Definitions.

2.1. "Aquatic Waste" means any substance composed of excretal of animals, fish and/or other aquatic life, other than man, and may include other natural materials normally associated with the substance, commonly referred to as manure, as well as water associated with or added to the substance.

2.2. "Best Management Practices" means activities, procedures and practices to prevent or remedy the introduction of manure residues into waters to the extent technically feasible and economically practical. Best Management Practices are designed to maintain the health and long-term productivity of the soil, water and related plant and animal resources and to minimize the threat of soil, waste and nutrient contamination to the waters of the state.

2.3. "Commercial Fish Operation" means an operation that sells at least One Thousand Dollars of fish products per year.

2.4. "Commissioner" means the commissioner of agriculture of the state of West Virginia or his or her duly authorized agent.

'61-27-3. Program and Policy Statements.

Research has shown that manure from fish is similar in its chemical composition to other livestock manure and should be treated in the same manner when land applied as a source of agriculture fertilizer. Therefore, the Commissioner recommends that commercial fish operations, federal agencies, state agencies or non-profit organizations dealing in aquaculture research or the production of aquaculture for the benefit of the citizens of the state use the generally accepted Best Management Practices for Nutrient Management.



State of West Virginia  
**DEPARTMENT OF AGRICULTURE**  
Gus R. Douglass, Commissioner

Janet L. Fisher  
Deputy Commissioner

Steve Hannah  
Deputy Commissioner

**SUMMARY OF PROPOSED RULE**

**BEST MANAGEMENT PRACTICES FOR LAND APPLICATION OF WASTE PRODUCTS  
FROM AQUACULTURE FACILITIES  
TITLE 61 – SERIES 27**

This proposed rule establishes voluntary best management practices to prevent or minimize the entry of aquatic waste into the waters of the State and improving the soil and plant resources of this state.

Research has shown that manure from fish is similar in its chemical composition to other livestock manure and should be treated in the same manner when land applied as a source of agriculture fertilizer. Therefore, the Commissioner recommends that commercial fish operations, federal agencies, state agencies or non-profit organizations dealing in aquaculture research or the production of aquaculture for the benefit of the citizens of the state use the generally accepted Best Management Practices for Nutrient Management



State of West Virginia  
**DEPARTMENT OF AGRICULTURE**  
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Deputy Commissioner

Steve Hannah  
Deputy Commissioner

**STATEMENT OF FACTS AND CIRCUMSTANCES**

**BEST MANAGEMENT PRACTICES FOR LAND APPLICATION OF WASTE PRODUCTS  
FROM AQUACULTURE FACILITIES  
TITLE 61 – SERIES 27**

This proposed new rule is as result of authority given the Commissioner of the Department of Agriculture by House Bill 2474 during the 2009 legislative session, which reads in part:

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-29-6; and to amend and reenact §22-15-22 of said code, all relating to the regulation of land-based aquaculture facilities; exempting aquaculture facilities from certain sludge management requirements; and providing the Commissioner of Agriculture rule-making authority to promulgate rules after consultation with the Department of Environmental Protection, concerning the disposal or application of waste produced from an aquaculture facility.

After consultation with the Department of Environmental Protection and industry representatives, we have compiled the attached proposed rule.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Best Management Practices for Land Application of Waste Products from Aquaculture Facilities

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Blvd, E.  
Charleston, WV 25303

Phone Number: (304) 558-3200 Email: shannah@ag.state.wv.us

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

No change will occur to cost or revenues of state government.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title: Best Management Practices for Land Application of Waste Products from Aquaculture *Facilities*

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

No fees are associated with proposed rule.

### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: 6-10-09

Signature of Agency Head or Authorized Representative

*Sten Herron*