

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

Form #4

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: 19-33-1

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

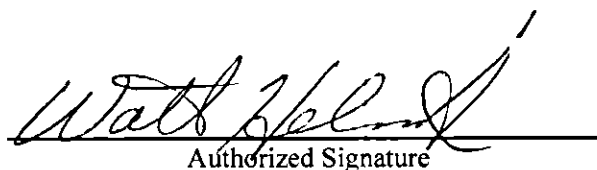
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 32

TITLE OF RULE BEING PROPOSED: Equine Rescue Facilities

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

Title
Legislative Rule
West Virginia Department of Agriculture
Series 32
Equine Rescue Facilities

§ 61-32 -1. General.

1.1. Scope. -- This legislative rule defines terms, establishes the standards for maintenance of the premises of an Equine Rescue facility, the standards of care and health of the horses kept at the facility, as well as standards for inspection of those facilities. This legislative rule also establishes standards for closure and seizure of horses kept at an Equine Rescue facility.

1.2. Authority. -- West Virginia Code §19-33-1.

1.3. Filing Date. --

1.4. Effective Date. --

§61-32-2. Definitions.

2.1. "APHIS" means Animal and Plant Health Inspection Service.

2.2. "Application" means a request form submitted to the Commissioner to open an Equine Rescue Facility.

2.3. "Body condition score" means an industry accepted evaluation of an animal's body fat and muscle mass as related to skeletal dimension and stage of production.

2.4. "Coggins" means the common name for the agar gel immunodiffusion test for diagnosis of Equine Infectious Anemia (EIA).

2.5. "Commissioner" means the Commissioner of the West Virginia Department of Agriculture.

2.6. "Designated isolation area" means an area with no direct equine contact.

2.7. "Emergency situation" means a serious unexpected and often dangerous situation requiring immediate action.

2.8. "Equine" means any animal in the Family Equidae, including horses, asses, mules, ponies, and zebras.

2.9. "Equine infectious anemia" means an infectious disease of equines caused by a lentivirus, equine infectious anemia virus (EIAV).

2.10. "Equine rescue facility" means a facility that is listed as a nonprofit organization having a legitimate and current status under Title 26 U.S.C. 501(c)(3) that fosters care to unwanted equines due to age, health or other circumstances that deem the equines homeless; provided that a nonprofit organization that supervises foster care of unwanted equines but does not have a physical location where animals are housed is not an equine rescue facility for purpose of West Virginia Code §19-33-1

2.11. "Equine rescue facility license" means a license granted by the Commissioner to an applicant to open an equine rescue facility.

2.12. "Henneke body score" means a numerical scale used to evaluate the amount of fat on a horse's body, based on both visual appraisal and palpable fat cover of the six major points of the horse that are most responsive to changes in body fat. It is the scientific method of evaluating a horse's body condition regardless of breed, body type, sex or age.

2.13. "Humane officer" means a person, designated by the sheriff in each county, to prevent the perpetration or continuance of any act of cruelty upon any animal and to investigate and, upon probable cause, to arrest and assist in the prosecution of any person engaging in cruel and forbidden practices.

2.14. "Inspection" means an examination of an equine rescue facility to see that the standards of care are met for the horses, facility, and premises, conducted by a humane officer or county sheriff, in the county that the facility is located.

2.15. "Licensed accredited veterinarian" means any veterinarian licensed to practice veterinary medicine in the state of West Virginia and accredited by the State Veterinarian, APHIS and approved by the Deputy Administrator of USDA, APHIS, VS (United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Service) in accordance with provisions of Part 161, Title 9, Code of Federal Regulations (CFR) and pre-approved to perform certain functions of Federal and cooperative State-Federal programs.

2.16. "Maintenance" means the preservation and upkeep of the premises of an equine rescue facility, as well as the space in which horses are kept.

2.17. "Quarantine area" means a confined area, a minimum of 200 yards from any equine and under the direct supervision and control of a State or Federal animal health official, who shall establish procedures for the accounting of all animals entering or leaving the area.

2.18. "Revocation" means the withdrawal of a license to operate an equine rescue facility by the Commissioner.

2.19. "Seizure" means to take possession of the horses that are kept at an equine rescue facility.

2.20. "Shelter" means any cover man made or natural that gives livestock or poultry protection from the elements.

2.21. "USDA" means the United States Department of Agriculture.

2.22. "West Virginia Equine Rescue Standards" means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities.

§61-32-3. Issuance of license.

3.1. A person requesting a license to operate an Equine Rescue Facility shall submit an application to the Commissioner of the West Virginia Department of Agriculture.

3.2. The application shall include:

3.2.a. The name of the person responsible for the facility;

3.2.b. The address of the facility;

3.2.c. A detailed drawing and measurements of the facility including;

3.2.c.1. A quarantined area; and

3.2.c.2. An isolation area;

3.2.d. The phone number of the person responsible for the facility; and

3.2.e. All veterinary records pertaining to each equine at the facility including;

3.2.e.1. The name of the veterinarian; and

3.2.e.2. The phone number of the veterinarian.

3.3. The Commissioner shall notify the humane officer upon issuing a license.

§61-32-4. Annual fee.

4.1. The annual fee for an equine rescue facility license is \$100.

4.2. The Commissioner shall remit this fee to the humane officer in the county where the facility is located to offset the expense of inspecting that facility.

§61-32-5. Standards of care for equine rescue facility.

5.1. Standards of care for an equine rescue facility are contained in the West Virginia Department of Agriculture's rule, Livestock Care Standards 61CSR31.

§61-32-6. Standards for inspection.

6.1. All equine rescue facilities shall be inspected two (2) times per year by the humane officer in that county.

6.2. The humane officer shall notify the Commissioner of his or her inspection report.

6.3. If the standards of care that are listed in §61-32-5 and §61-32-6, and the standards in the AAEP Care Guidelines for Equine Rescue and Retirement Facilities are not met the Commissioner shall revoke the facility's license.

6.4. The facility shall have up to sixty (60) days after the revocation to correct its violations.

6.5. In the case of an emergency situation, the Commissioner may allow a facility which is not meeting the standards to remain open until it can resolve the situation.

§61-32-7. Standards for closure.

7.1. The Commissioner shall close any facility that fails to comply with correction of its violations.

7.2. If ownership of equine seized from the facility is granted to the state, the West Virginia Department of Agriculture shall immediately sell equine at public auction to the highest bidder.

7.2.a. All equine taken to public auction shall require a negative Coggins test.

7.3. Seized horses will be supported in place or relocated to a West Virginia Department of Agriculture facility, and cared for until marketed.