

**WEST VIRGINIA
SECRETARY OF STATE
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ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
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Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1C

TITLE OF RULE BEING AMENDED: Disposal of Dead Poultry

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 2819

SECTION 64-9-2(c), PASSED ON April 10, 2009

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2009



Authorized Signature

TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE

FILED

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SERIES 1C
DISPOSAL OF POULTRY MORTALITY

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§61-1C-1. General.

1.1. Scope. -- This rule regulates the disposal of poultry mortality by persons, firms or corporations engaged in growing poultry for commercial purposes.

1.2. Authority. -- W. Va. Code §19-9-34A.

1.3. Filing Date. -- May 7, 2009

1.4. Effective Date. -- July 1, 2009

1.5. Repeal of Former Rule -- This legislative rule repeals and replaces W.Va. §61CSR1C "West Virginia Disposal of Dead Poultry" filed April 23, 1992, and effective April 27, 1992.

§61-1C-2. Definitions.

2.1. "Backyard poultry flocks" means a group of poultry, in numbers less than 3000 at one time, for the purpose of sale of the poultry or the eggs produced from the poultry, or the raising or keeping of gamebirds. The disposal of poultry mortality from backyard flocks due to flock depopulation, abnormal death losses, or a catastrophic disease outbreak shall conform to this rule.

2.2. "Burial" means interment of mortality below the natural surface of the ground. The West Virginia Department of Agriculture, USDA Natural Resources Conservation Service and the West Virginia Department of Environmental Protection shall approve the criteria and the burial site for poultry mortality. The burial site location shall be situated to prevent the contamination of ground and surface waters.

2.3 A "Composter" is a roofed structure with an impervious floor, and with treatment areas made of wood, designed for composting organic materials.

2.4. "Composting" means a natural process in which beneficial microbes reduce organic waste (poultry mortality) into a biologically safe by-product which is capable of being recycled in the agriculture industry.

2.5. "Dead poultry" and "poultry mortality" means all poultry, excluding those intentionally slaughtered, which die as a result of disease, injury or of natural causes.

2.6. "Emergency Situations" means situations which involve mass mortality due to flock depopulation, abnormal death losses or a catastrophic disease outbreak.

2.7. "Incinerator" means a firebox constructed of masonry or metal in which poultry mortality is completely burned to ashes by the use of fuel.

2.8. "Person" means any individual, firm, partnership, corporation, or institution which engages in the raising or keeping of poultry for commercial purposes. A person is further defined as the grower of the poultry regardless of the ownership of the poultry.

2.9. "Poultry" means all chickens, ducks, turkeys, or other domestic fowl.

2.10. "Raising or keeping of poultry for commercial purposes" means the growing of a flock of 3000 or more poultry at one time for the purpose of sale of the poultry or the eggs produced from the poultry.

2.11. "Rendering" means the treatment of poultry mortality by steam treatment or by cooking at a commercial rendering plant, for a sufficient time to effectively destroy the product for human food purposes and to preclude dissemination of disease through consumption by animals.

2.12. "Sanitary Landfill" means a solid waste disposal site permitted or approved by the West Virginia Department of Environmental Protection. Poultry mortality intended for disposal in a sanitary landfill shall be delivered to the landfill within 24 hours of death or be refrigerated below 40 degrees Fahrenheit pending delivery. All persons shall hold all poultry mortality in a container that is leak proof, fly proof, and pet and wild animal proof.

§61-1C-3. Rules Pertaining to the Disposal of Poultry Mortality.

3.1. It is unlawful for any person to dispose of, or cause to be disposed of, poultry mortality in any manner other than by incinerator, composting, burial in a sanitary landfill, burial on private property, or rendering as defined in section 2 of this rule.

3.2. The West Virginia Department of Agriculture shall permit burial of mass poultry mortality during emergency situations for the protection of the public and animal health as defined in section 8 of this rule.

3.3. A person shall not transport poultry mortality that is the result of a disease outbreak or depopulation to an off-farm disposal site without prior approval, granted on a case-by-case basis by the Commissioner of Agriculture or his or her representative.

3.4. Facilities designed for the purpose of disposal of poultry mortality constructed prior to the effective date of this rule are exempt from section 6.2 of this rule.

§61-1C-4. Standards for Incineration.

4.1. Poultry mortality may be disposed of by using a commercial incinerator.

4.2. West Virginia Department of Environmental Protection shall approve the incinerator and the methods used to dispose of poultry mortality. Incinerators shall be registered with the West Virginia Department of Environmental Protection Division of Air Quality.

4.3. The incinerator operation shall be in accordance with the owner's manual and shall result in minimal smoke or odor.

4.3.a. Homemade incinerators that do not meet air pollution control standards are not an acceptable means of incineration. Poultry mortality must be reduced to ashes.

4.4. Incineration shall be accomplished by use of a basic incinerator, which may be mobile, or permanent, an air curtain burner or a gasification unit.

§61-1C-5. Standards for Rendering.

5.1. Rendering of poultry mortality shall be picked up or delivered to the rendering plant within 24 hours of death unless the poultry mortality is frozen or refrigerated below 40 degrees Fahrenheit pending pickup or delivery and shall be delivered in covered leak-proof containers. All persons shall hold all poultry mortality in a container that is leak proof, fly proof, and pet and wild animal proof.

5.1.a. The Commissioner of Agriculture or his or her representative may approve alternative requirements during emergency situations.

5.2. Vehicles used for transporting poultry mortality to a commercial rendering facility shall be constructed and maintained prior to receiving into the vehicle, so that no liquid or fluid from the poultry mortality drips or seeps from the vehicle during transport.

5.3. The use of a refrigeration unit or freezer for cold storage of poultry mortality is necessary unless delivered on a daily basis to the rendering plant. The refrigeration units or freezers shall be animal and vermin proof.

§61-1C-6. Standards for Composting.

6.1. Composting requires a covered structure consisting of a roof with an overhang and a concrete or otherwise impervious floor to prevent rainwater from reaching the composted material. The composter shall be designed and constructed to prevent the contamination of ground and surface water.

6.2. The composter shall be located 100 feet from surface water, drainage ditches, and wet lands. The composter should be located as far from residences and public roads

as possible, but at least 150 feet from the property line. A typical unit will contain two treatment areas. A primary treatment area may consist of one or more compartments. The secondary treatment area will be one compartment that will receive partially composted material from the primary treatment areas. Material in the primary treatment area is moved to the secondary area when it has reached a peak temperature of 140 to 160 degrees Fahrenheit after seven to ten days. The composting process is complete when the temperature in the secondary treatment area has reached peak temperature of 140 to 160 degrees Fahrenheit after seven to ten days.

6.3. Growers shall not attempt to compost large numbers of poultry mortality without assistance and approval from the West Virginia Department of Agriculture in consultation with the USDA Natural Resources Conservation Services and the West Virginia Department of Environmental Protection.

6.4. Composting may be used for the disposal of mass mortality during an emergency situation. Mass mortality composting may be accomplished in the poultry house or at an outside location. In-house composting involves placing the poultry mortality and carbon materials in windrows inside the poultry house, and allowing the poultry mortality to go through the first heating cycle in these windrows. For the second heating cycle the windrows may be turned over and restacked in the poultry house, or the compost may be removed from the poultry house and restacked at an outdoor location. This location shall be situated to prevent the contamination of ground and surface water. The West Virginia Department of Agriculture in consultation with the USDA Natural Resources Conservation Service and the West Virginia Department of Environmental Protection shall select the site for composting in an outdoor location.

§61-1C-7. Standards for Landfill Disposal.

7.1. Arrangements shall be made with a city, county, regional, or private landfill official, representing the landfill, for the disposal of poultry mortality in an approved sanitary landfill.

7.2. Vehicles used for transporting poultry mortality to a sanitary landfill facility shall be constructed and maintained prior to receiving poultry mortality into the vehicle, so that no liquid or fluid from the poultry mortality drips or seeps from the vehicle during transport.

7.3. The use of a refrigeration unit or freezer for cold storage of poultry mortality is necessary unless delivered on a daily basis to the sanitary landfill. The refrigeration units and freezers shall be animal and vermin proof.

7.3.a. The Commissioner of Agriculture or his or her representative may approve alternative requirements during emergency situations.

§61-1C-8. Standards for Burial.

8.1. During emergency situations, burial of mass poultry mortality may be permitted. USDA Natural Resources Conservation Service and the West Virginia Department of Environmental Protection shall be consulted on the site selection for mass poultry mortality burial.

8.1.a. The burial site location must be situated to prevent the contamination of ground and surface water.