

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

Form #6

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1992 APR 23 AM 11:58

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Agriculture TITLE NUMBER: 61

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 NEW RULE BEING PROPOSED: 1C

TITLE OF RULE BEING PROPOSED: Disposal of Dead Poultry

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

AUTHORIZATION IS CITED IN (house or senate bill number) SB1

SECTION 64-9-1-(ii), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: April 27, 1992

  
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WEST VIRGINIA LEGISLATIVE REGULATIONS  
STATE DEPARTMENT OF AGRICULTURE  
TITLE 61  
SERIES 1C

FILED

1992 APR 23 AM 11: 58

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

TITLE: Disposal of Dead Poultry

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§61-1C-1. General.

1.1 Scope - These rules regulate the disposal of dead poultry and other domestic fowl by persons, firms or corporations engaged in growing poultry or other domestic fowl for commercial purposes.

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

1.3 Filing Date -

1.4 Effective Date -

§61-1C-2. Definitions.

2.1 "Poultry" means all chickens, ducks, turkeys, or other domestic fowl being kept or raised for commercial purposes.

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

2.3 "Person" means any person, 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.

2.4 "Raising or keeping of poultry for commercial purposes" means the raising or keeping of 200 or more poultry at one time for the purpose of sale of such poultry or the eggs produced therefrom.

2.5 "Incinerator" means a firebox constructed of masonry or metal in which dead poultry is completely burned by the use of fuel.

2.6 "Composting" means a natural process in which beneficial microbes reduce organic waste (dead poultry) into a biologically safe by-product which is capable of being recycled in the agriculture industry. A composter is a unit constructed of concrete or treated wood located under a roofed structure. 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.

2.7 "Rendering" means the treatment of dead poultry 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. Dead poultry intended for disposal by rendering shall be picked up by or delivered to the rendering company within 24 hours of death or be refrigerated below 40 degrees fahrenheit pending pickup or delivery. All persons shall hold all dead poultry for rendering in a container that is leak proof, fly proof, and pet and wild animal proof.

2.8 "Disposal pit" means an opening dug in the ground to a minimum depth of six feet, containing a minimum capacity of 150 cubic feet, covered with a minimum of 12 inches of dirt, and provided with one or more openings for the introduction of poultry. The openings shall be a minimum size of eight inches square and equipped with tight lids. A disposal pit shall be located in a site which will prevent contamination of the groundwater or the surface water. This site should conform to the standards established in this rule.

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

3.1 It is unlawful for any person to dispose of, or cause to be disposed of, dead poultry in any manner other than by incinerator disposal pit, composting or through rendering as defined in section 2 of these rules except where the Commissioner of Agriculture authorizes other methods of disposal under the terms of sub-section 3.2 of this rule.

3.2 For protection of public and animal health, the Commissioner of Agriculture may authorize disposal of dead poultry by methods other than those prescribed in this rule in instances of serious disease outbreak, abnormal death losses, flock depopulation or other emergency situations.

#### §61-1C-4. Standards for Site Location for Disposal Pits.

4.1 No part of a disposal pit system shall be located in a poorly drained or filled area, or in any area where seasonal flooding occurs.

4.2 No part of a disposal pit system shall be located within 10 feet of a building, foundation or property line.

4.3 No part of a disposal pit system shall be located within 50 feet of a public water supply line or within 10 feet of a private water supply system.

4.4 A disposal pit shall be located at least 50 feet from a private well or groundwater supply.

4.5 There shall be a minimum of three feet between the bottom of a disposal pit and seasonal groundwater or rock, shale or any other impermeable layer.

4.6 The evaluation of the site for installation of a disposal pit shall be based upon percolation test results. Percolation tests shall be performed in the following manner:

4.6.a Location - At least two holes shall be placed over the selected site. The results of these two test holes will be averaged.

4.6.b Holes shall be dug or bored from six to eight inches in diameter at the site where the disposal pit will be installed. The holes should be at least 24 inches in depth.

4.6.c The bottom and sides of the holes shall be scratched with a sharp pointed instrument or wire brush to remove any smeared soil surfaces which interfere with the absorption of water into the soil.

4.6.d Loose dirt shall be removed from the bottom of the test holes and two inches of coarse sand or fine gravel shall be placed into the holes to prevent sealing.

4.6.e An eight or ten penny nail shall be placed in the wall of each hole exactly six inches above the level of sand or gravel.

4.6.f The test hole shall be completely filled with water to ground level. Water in the hole shall be kept to a depth of at least 12 inches for a minimum period of four hours before beginning the percolation rate measurement.

4.6.g Percolation rate measurement - Upon completion of the above, the water depth in the holes shall be adjusted to the level of the nail. The number of minutes it takes for this six inches of water (all the water) to be absorbed into the soil shall be accurately determined. This time in minutes, divided by six, gives the rate of fall per inch. The average rate of fall must be between five minutes and 60 minutes.

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Bill Agri, Dead Poultry 61-1C

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H. B. 4253

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the

Committee on Agriculture and Natural Resources)  
then the Judiciary

10 A BILL to amend and reenact section one, article nine, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 commissioner of agriculture to promulgate legislative rules  
14 relating to the disposal of dead poultry.

15 Be it enacted by the Legislature of West Virginia:

16 That section one, article nine, chapter sixty-four of the  
17 code of West Virginia, one thousand nine hundred thirty-one, as  
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS  
20 TO PROMULGATE LEGISLATIVE RULES.

21 §64-9-1. Commissioner of Agriculture.

22 (a) The legislative rules filed in the state register on the  
23 sixth day of April, one thousand nine hundred eighty-three,

4253

1 relating to the commissioner of agriculture (schedule of charges  
2 for inspection services: fruit), are authorized.

3 (b) The legislative rules filed in the state register on the  
4 third day of August, one thousand nine hundred eighty-three,  
5 relating to the commissioner of agriculture (licensing of  
6 auctioneers), are authorized.

7 (c) The legislative rules filed in the state register on the  
8 eighth day of February, one thousand nine hundred eighty-four,  
9 relating to the commissioner of agriculture (conduct of beef  
10 industry self-improvement assessment program referendum), are  
11 authorized.

12 (d) The legislative rules filed in the state register on the  
13 fourth day of June, one thousand nine hundred eighty-four,  
14 relating to the commissioner of agriculture (feeding untreated  
15 garbage to swine), are authorized.

16 (e) The legislative rules filed in the state register on the  
17 fourth day of June, one thousand nine hundred eighty-four,  
18 relating to the commissioner of agriculture (registration,  
19 taxation and control of dogs), are authorized.

20 (f) The legislative rules filed in the state register on the  
21 first day of November, one thousand nine hundred eighty-four,  
22 relating to the commissioner of agriculture (public markets), are  
23 authorized.

24 (g) The legislative rules filed in the state register on the  
25 tenth day of September, one thousand nine hundred eighty-four,

1 relating to the commissioner of agriculture (noxious weed rules),  
2 are authorized.

3 (h) The legislative rules filed in the state register on the  
4 fourth day of June, one thousand nine hundred eighty-four,  
5 relating to the commissioner of agriculture (animal disease  
6 control), are authorized.

7 (i) The legislative rules filed in the state register on the  
8 fifth day of January, one thousand nine hundred eighty-four,  
9 relating to the commissioner of agriculture (use of certain  
10 picloram products), are authorized.

11 (j) The legislative rules filed in the state register on the  
12 eighth day of March, one thousand nine hundred eighty-five,  
13 relating to the commissioner of agriculture (increasing certain  
14 fees by rules and regulations), are authorized.

15 (k) The legislative rules filed in the state register on the  
16 thirteenth day of January, one thousand nine hundred eighty-six,  
17 modified by the commissioner of agriculture to meet the  
18 objections of the legislative rule-making review committee and  
19 refiled in the state register on the thirty-first day of January,  
20 one thousand nine hundred eighty-six, relating to the  
21 commissioner of agriculture (licensing of livestock dealers), are  
22 authorized.

23 (l) The legislative rules filed in the state register on the  
24 eighteenth day of June, one thousand nine hundred eighty-six,  
25 modified by the commissioner of agriculture to meet the

1 objections of the legislative rule-making review committee and  
2 refiled in the state register on the fifth day of January, one  
3 thousand nine hundred eighty-seven, relating to the commissioner  
4 of agriculture (West Virginia pesticide use and application act),  
5 are authorized.

6 (m) The legislative rules filed in the state register on the  
7 eighteenth day of August, one thousand nine hundred eighty-six,  
8 modified by the director of the division of forestry of the  
9 department of agriculture to meet the objections of the  
10 legislative rule-making review committee and refiled in the state  
11 register on the fifth day of January, one thousand nine hundred  
12 eighty-seven, relating to the director of the division of  
13 forestry of the department of agriculture (ginseng), are  
14 authorized.

15 (n) The legislative rules filed in the state register on the  
16 tenth day of April, one thousand nine hundred eighty-seven,  
17 relating to the commissioner of agriculture (schedule of charges  
18 for inspection services: fruit), are authorized.

19 (o) The legislative rules filed in the state register on the  
20 thirteenth day of August, one thousand nine hundred eighty-seven,  
21 modified by the commissioner of agriculture to meet the  
22 objections of the legislative rule-making review committee and  
23 refiled in the state register on the eighth day of September, one  
24 thousand nine hundred eighty-seven, relating to the commissioner  
25 of agriculture (animal disease control), are authorized.

1 (p) The legislative rules filed in the state register on the  
2 fifteenth day of September, one thousand nine hundred  
3 eighty-eight, relating to the commissioner of agriculture (sale  
4 and distribution of commercial fertilizer), are authorized.

5 (q) The legislative rules filed in the state register on the  
6 fifteenth day of September, one thousand nine hundred  
7 eighty-eight, modified by the commissioner of agriculture to meet  
8 the objections of the legislative rule-making review committee  
9 and refiled in the state register on the twenty-sixth day of  
10 October, one thousand nine hundred eighty-eight, relating to the  
11 commissioner of agriculture (animal disease control), are  
12 authorized.

13 (r) The legislative rules filed in the state register on the  
14 fifteenth day of May, one thousand nine hundred eighty-nine,  
15 modified by the commissioner of agriculture to meet the  
16 objections of the legislative rule-making review committee and  
17 refiled in the state register on the twenty-first day of August,  
18 one thousand nine hundred eighty-nine, relating to the  
19 commissioner of agriculture (production of milk and cream for  
20 manufacturing purposes), are authorized.

21 (s) The legislative rules filed in the state register on the  
22 seventh day of August, one thousand nine hundred eighty-nine,  
23 modified by the commissioner of agriculture to meet the  
24 objections of the legislative rule-making review committee and  
25 refiled in the state register on the twenty-third day of October,

1 one thousand nine hundred eighty-nine, relating to the  
2 commissioner of agriculture (animal disease control), are  
3 authorized.

4 (t) The legislative rules filed in the state register on the  
5 tenth day of August, one thousand nine hundred ninety, modified  
6 by the commissioner of agriculture to meet the objections of the  
7 legislative rule-making review committee and refiled in the state  
8 register on the fifth day of October, one thousand nine hundred  
9 ninety, relating to the commissioner of agriculture (meat  
10 inspection), are authorized.

11 (u) The legislative rules filed in the state register on the  
12 tenth day of August, one thousand nine hundred ninety, modified  
13 by the commissioner of agriculture to meet the objections of the  
14 legislative rule-making review committee and refiled in the state  
15 register on the third day of October, one thousand nine hundred  
16 ninety, relating to the commissioner of agriculture (agricultural  
17 liming materials), are authorized.

18 (v) The legislative rules filed in the state register on the  
19 tenth day of August, one thousand nine hundred ninety, modified  
20 by the commissioner of agriculture to meet the objections of the  
21 legislative rule-making review committee and refiled in the state  
22 register on the third day of October, one thousand nine hundred  
23 ninety, relating to the commissioner of agriculture (public  
24 markets), are authorized.

1 (w) The legislative rules filed in the state register on the  
2 nineteenth day of September, one thousand nine hundred ninety,  
3 modified by the commissioner of agriculture to meet the  
4 objections of the legislative rule-making review committee and  
5 refiled in the state register on the ninth day of November, one  
6 thousand nine hundred ninety, relating to the commissioner of  
7 agriculture (animal disease control), are authorized.

8 (x) The legislative rules filed in the state register on the  
9 eighth day of August, one thousand nine hundred ninety-one,  
10 modified by the commissioner of agriculture to meet the  
11 objections of the legislative rule-making review committee and  
12 refiled in the state register on the twenty-fourth day of  
13 September, one thousand nine hundred ninety-one, relating to the  
14 commissioner of agriculture (disposal of dead poultry) are  
15 authorized.

16

17 NOTE: The purpose of this bill is to authorize the  
18 Commissioner of Agriculture to promulgate legislative rules  
19 relating to the disposal of dead poultry.

20

21 Strike-throughs indicate language that would be stricken from  
22 the present law, and underscoring indicates new language that  
23 would be added.



KEN HECHLER  
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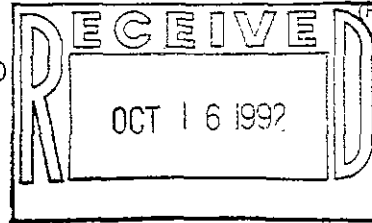
JUDY COOPER  
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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Plus all the volunteer help we can get!

TO: Barbara Smith

AGENCY: Department of Agriculture

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 15, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 10 TITLE: 51 Department of Agriculture

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Barbara J. Smith

TITLE OF PERSON SIGNING: Director of Compliance

DATE: 11-12-92

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\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MADE.

SIGNED: [Signature]

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.