



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Agriculture and Consumer services
Virginia Administrative Code (VAC) citation	2 VAC 5-200
Regulation title	Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry
Action title	Adds "composting" as a method of disposing of poultry destroyed to prevent the spread of a contagious disease and amends the definitions to include composting, and amends the requirement pertaining to disposal plans.
Date this document prepared	August 16, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

Consideration will be given to amending the current regulation to authorize additional approved methods for the disposal of large numbers of dead poultry when disposal of whole flocks is necessary. The amendments will modify and clarify the development and requirement for filing of disposal plans by poultry operations of all sizes when dealing with whole flock mortality. In addition, consideration will be given to amending the current regulation to allow for the elimination of the requirement that all commercial poultry farms file a disposal plan with the State Veterinarian. Disposal of entire poultry flocks of all sizes would be handled in accordance with the VDACS approved emergency disease plans.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Board of Agriculture and Consumer Services is authorized to adopt regulations under Section 3.1-726 of the Code of Virginia. This section encourages the Board to conform its regulations involving the prevention and eradication of contagious or infectious diseases to livestock and poultry with federal regulations establishing regional or national plans of control and eradication. This regulation is in keeping with the state's duty to control and eradicate infectious or contagious disease as part of that cooperative effort. This regulation as it now exists and as it will be amended leaves extensive discretion with the State Veterinarian as to which method will be used to dispose of the large number of poultry carcasses when an outbreak of avian influenza occurs. Disposal of whole flocks will be accomplished by the use of quarantine orders issued by the State Veterinarian under Section 3.1-727 of the Code. Although this latter authority exists, consideration will be given to promulgating an amended regulation on the methods that will be used for disposal. Updating the regulation will allow industry and government at all levels to prepare to meet its requirements.

Need

Part of any program to control or eradicate an infectious or contagious disease in animals includes destruction and elimination of the carcasses. The current regulation permits poultry infected with the disease to be destroyed by incineration (on or off the poultry premises where the birds were raised), rendering, burying in a landfill, or burying in a disposal pit on premises. The proposal in mind is to add "composting" to these approved methods of disposal". Composting is a process of mixing carcasses, a carbon source, and water to create a homogenous material suitable for use as fertilizer.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

2 VAC 5-200-10 will be amended to define composting of poultry carcasses.

2 VAC 5-200-30 will be amended to include composting as an acceptable option for the disposal of whole poultry flock mortality.

2 VAC 5-200-50 will be amended to change the requirement pertaining to disposal plans.

Other language and definitions may be modified to make the regulation more easily understood.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

The department meets quarterly with officials of the United States Department of Agriculture, Veterinary Services, the Virginia Department of Environmental Quality, Virginia Cooperative Extension Service, and members of the Virginia Poultry Federation. This group constitutes the agency's "Virginia Poultry Industry

Task Force.” Disposal of large bird mortality is discussed at these meetings. Virginia Cooperative Extension has conducted composting trials to ascertain the best procedures to use in assuring that composting is effective, protects human and animal health, and is environmentally sound. Comments on other disposal options will be solicited and considered.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to:

Colleen Calderwood, DVM
P.O. Box 1163
Richmond, Virginia 23218
Phone: 804-786-2483
Fax: 804-371-2380
E-mail: colleen.calderwood@vdacs.virginia.gov

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will not be held in conjunction with the Notice of Intended Regulatory Action.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

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Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed amendments to the current regulation should have a positive impact on Virginia families overall, as well as hundreds of families with poultry production operations. Many of Virginia's poultry growers are family farmers whose income will be severely curtailed if there is another outbreak of avian influenza. Suppliers and other family businesses dependent on the poultry industry will see their income diminished or curtailed during the eradication of the disease. The regulation changes anticipated are expected to increase protection of the state's supply of poultry which is an inexpensive food. Broad based planning for a future outbreak of avian influenza is essential to minimize impacts on families.