



Division of Air Quality
7012 MacCorkle Avenue, SE
Charleston, WV 25304-2943
Telephone Number: (304) 926-3647
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West Virginia Department of Environmental Protection

Bob Wise
Governor

Michael O. Callaghan
Secretary

AGRICULTURAL INCINERATOR COMPLIANCE ORDER

ISSUED TO: POULTRY FARMERS OF HARDY, PENDLETON
AND GRANT COUNTIES IN WEST VIRGINIA

CO-R6-C-2002-25A

This Compliance Order supersedes and replaces Compliance Order #CO-R6-C-2002-25. This Compliance Order is entered into under the authority and direction of West Virginia Code § 22-1-7 and -8 and West Virginia Code § 22-5-4 which authorizes the Chief of the Office of Air Quality, now Director of the Division of Air Quality ("DAQ"), acting on behalf of the Director of the Division of Environmental Protection, now the Secretary of the Department of Environmental Protection ("DEP"), to enter Orders requiring compliance with the provisions of the West Virginia Air Pollution Control Act to regulate and control air pollution in the State of West Virginia.

I. FINDINGS OF FACT

1. This Order applies to poultry production operations in Hardy, Pendleton and Grant Counties (County Codes 031, 071, 023) in West Virginia. The West Virginia Department of Agriculture has expressed a need for poultry farmers in these areas to own and/or operate an agricultural incinerator to dispose of the normal mortality of poultry farms.
2. This need arises by virtue of an outbreak of low-pathogen Avian Influenza ("AI") in the State of Virginia, which has resulted in the destruction of approximately 5 million chickens and turkeys to date. This outbreak occurred in six Virginia counties, four of which are contiguous with West Virginia's main area of poultry production.
3. Low-pathogen AI is only one mutation point away from high-pathogen AI. Each time the virus goes through an animal the potential exists for it to mutate and emerge as a lethal strain. Because this strain is merely two amino acids away from a high-pathogen form of AI, efforts are being made to contain the spread of this strain of low-pathogen AI to avoid the disastrous consequences of it mutating to the high-pathogen form of AI, which could result in a highly fatal, rapidly spreading epidemic.
4. Low-pathogen AI was detected in Moorefield, WV in May, 2002. This resulted in the declaration of a site specific "agricultural state of emergency" by the Commissioner of the West Virginia Department of Agriculture, and the depopulation, destruction, and disposal of approximately 14,000 chickens.
5. Although the Commissioner of the West Virginia Department of Agriculture has not officially instituted Annex W of the State's Emergency Operations Plan, which outlines protocol for dealing with "Highly Contagious Animal and Poultry Diseases," the West Virginia Department of Agriculture is following the guidelines of Annex W to resolve problems that rise as a result of the current conditions facing WV's poultry industry.

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6. The West Virginia Department of Agriculture is instructing poultry farmers to limit travel and interaction. This means keeping activity limited to the individual farms, and includes a ban on the movement of poultry among farms within the State.
7. The normal mortality of many of these poultry farms would normally be taken to the rendering plant operated by Pilgrim's Pride and located in Moorefield, WV. This rendering plant will no longer accept the normal mortality from surrounding poultry farms as of June 14, 2002. This action is being taken as a biosecurity precaution because of the potential for cross-contamination. As a result of this option no longer being available to the poultry farms of the area, these farms have an immediate need of alternate sanitary means of disposal for their normal mortality.
8. On June 24, 2002, the DAQ issued Compliance Order #CO-R6-C-2002-25 for the compliance and registration of agricultural incinerators, which is superseded and replaced by this Order.

II. CONCLUSIONS OF LAW

1. The poultry farms located in the counties listed in subsection I.1. of this Order are subject to the jurisdiction of the DAQ for the purposes specified in this Order.
2. The Director has been granted the authority pursuant to 45CSR6, Section 9 "Emergencies and Natural Disasters" to allow an exemption of Section 6 of 45CSR6, which requires a permit in accordance with the provisions of W. Va. Code §§22-5-1 et seq., 45CSR13, 45CSR14, and 45CSR19, as applicable. Section 9 states in pertinent part that in situations involving a natural disaster the Director may, based on demonstrated need, allow incineration of non-hazardous debris from such natural disaster which would otherwise be subject to the requirements of sections 3, 4 or 6 of this rule, provided that: there is no practical alternative method for disposal of the material to be burned; and the health, safety, comfort and property of persons are protected from such burning.
3. The Director is granting exemptions of Section 6 of 45CSR6 for poultry farmers located in Hardy, Pendleton and Grant Counties (County Codes 031, 071, 023) in West Virginia, provided that they comply with the terms and conditions set forth in this Order.
4. Poultry farmers complying with the terms and conditions set forth in this Order shall not be in violation of Section 6 of 45CSR6 "To Prevent And Control Air Pollution From Combustion Of Refuse," or correspondingly with 45CSR13 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, and Procedures for Evaluation."
5. This Order does not make any finding of violation against the poultry farmers subject to this Order.

III. COMPLIANCE PROGRAM

1. The poultry farmers described in subsection I.1 of this Order are required to operate natural gas-fired or propane-fired Shenandoah A-6, A-10, A-12, and A-15 agricultural incinerators. Poultry farmers requesting to construct and/or operate a agricultural incinerator other than the Shenandoah A-6, A-10, A-12, and A-15 shall submit all the specific information requested by the Director. Poultry farmers requesting to construct and/or operate a different type of agricultural incinerator must obtain a separate Order approved by the Director.
2. The Shenandoah agricultural incinerators shall only be used to dispose of the normal mortality of chickens and/or turkeys. The Shenandoah agricultural incinerators shall not be used to incinerate diseased poultry. If diseased poultry are discovered, then operation of the agricultural incinerator shall be terminated and the exemption from Section 6 of 45CSR6 will be hereby rescinded.
3. The Shenandoah agricultural incinerators shall be charged only with poultry carcasses.

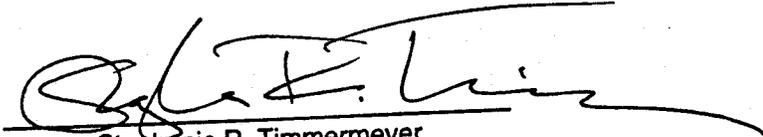
4. The maximum charge rate of poultry carcasses to the Shenandoah agricultural incinerators shall not exceed 200 pounds per load, with a corresponding maximum burn rate of 45 pounds per hour for model A-6; 250 pounds per load, with a corresponding maximum burn rate of 50 pounds per hour for model A-10; 400 pounds per load, with a corresponding maximum burn rate of 55 pounds per hour for model A-12; 500 pounds per load, with a corresponding maximum burn rate of 70 pounds per hour for model A-15.
5. Particulate matter emissions to the atmosphere resulting from the operation of the Shenandoah agricultural incinerators shall not exceed the requirements specified in Section 4 of 45CSR6.
6. The Shenandoah agricultural incinerators shall not exceed the visible particulate matter requirements set forth herein: No person shall cause, suffer, allow or permit emission of smoke into the atmosphere from any incinerator which is twenty (20%) percent opacity or greater. These provisions shall not apply to smoke which is less than forty (40%) percent opacity, for a period or periods aggregating no more than eight (8) minutes per start-up, or six (6) minutes in any sixty (60)-minute period for stoking operations.
7. The poultry incinerators shall be installed with a roof and, if at all possible, housed in a small shed, in accordance with the manufacturer's guidelines on installation.
8. Poultry farmers shall complete registration forms provided by the DAQ and these forms shall be sent to the Division of Air Quality, Attention: Stephanie R. Timmermeyer, Director, 7012 MacCorkle Avenue, SE, Charleston, WV 25304.
9. Poultry farmers that have not completed and returned the registration forms to the DAQ shall not be exempt from Section 6 of 45CSR6.
10. Poultry farmers that construct and/or operate agricultural incinerators within Hardy, Pendleton and Grant Counties that have not submitted a completed registration form to the DAQ and that do not maintain records in accordance with ATTACHMENT A shall be in violation of this Order.
11. DAQ will consider requests from poultry farmers located outside Hardy, Pendleton and Grant Counties (County Codes 031, 071, 023), which use the Pilgrim's Pride rendering plant, to construct and/or operate agricultural incinerators in accordance with the terms and conditions of this Order. Such requests will be approved by letter on a case-by-case basis, provided appropriate documentation is submitted and the conditions of this Order are adhered to.
12. Poultry farmers are required to maintain records in accordance with ATTACHMENT A of this Order. These records include monitoring the following parameters during the hours of operation of the incinerator:
 - a. The charge rate to the incinerator.
 - b. The time duration for the complete combustion cycle.Such observations shall be recorded on a daily/monthly basis as per the reporting form appended hereto as ATTACHMENT A. All records shall be made available to the Director or her duly authorized representative upon request.
13. Upon termination of this Order, the poultry farmers subject to this Order shall comply with all the requirements of 45CSR6 "To Prevent And Control Air Pollution From Combustion Of Refuse", including Section 6 "Permits", requiring a permit in accordance with the provisions of W. Va. Code §§22-5-1 et seq., 45CSR13, 45CSR14, and 45CSR19, as applicable.

IV. OTHER PROVISIONS

1. Upon registration the poultry farmer waives any and all rights of appeal of this Order.
2. This Order is binding on any registered poultry farmer, their successors and assigns, upon receipt by the DAQ of a completed registration form.
3. This Order is effective immediately upon the date that it is signed by the Director.
4. This Order shall terminate upon the Director rescinding the emergency exemption granted pursuant to Section 9 of 45CSR6 "To Prevent And Control Air Pollution From Combustion Of Refuse".

It is so ORDERED this 7th day of ~~Jan~~ 2002

DIVISION OF AIR QUALITY



Stephanie R. Timmermeyer

DIRECTOR

ATTACHMENT A⁽¹⁾ - RECORD-KEEPING FORM

Month/Year: _____ / _____

Day	Total Time of Incinerator Operation (hr/min)	Total Weight Loaded ⁽²⁾ (lbs)
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
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Note:

- (1) This record shall be maintained on site for a period of five (5) years. It shall be made available, upon request, to the Chief or his (her) authorized representative.
- (2) Charge rate not to exceed 250 lbs per load, with maximum burn rate of 50 lbs/hr.
- (3) Minimum temperature of incinerator must be 1,200 degrees Fahrenheit before charging.



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REGISTRATION FORM

POULTRY INCINERATOR ORDER CO-R6-C-2002-25A

FOR THE CONSTRUCTION, OPERATION AND
 PREVENTION AND CONTROL OF AIR POLLUTION FROM
 THE OPERATION OF POULTRY INCINERATORS

AGENCY USE ONLY	
Registration #:	_____
ID #:	_____
Region:	_____

A. GENERAL INFORMATION

- Company Name: _____ SIC _____
 Responsible Official: _____ Title: _____
 Address: _____ City: _____
 State: _____ Zip: _____ Phone: (____) _____ Fax: (____) _____
- The applicant is the: Owner Operator Owner and Operator
- List Federal Employer Identification Number (FEIN): _____
- Name of Poultry Incinerator: _____

B. AREA MAP

- Attached to this Registration Application is a USGS 7.5 minute topographic *Area Map* showing the current or proposed location of the Poultry Incinerator.

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C. CERTIFICATION OF INFORMATION

This Poultry Incinerator Order Registration shall be signed below by a Responsible Official. A Responsible Official is a President, Vice President, Secretary, Treasurer, General Partner, General Manager, a member of a Board of Directors, or Owner, depending on business structure. A business may certify an Authorized Representative who shall have authority to bind the Corporation, Partnership, Limited Liability Company, Association, Joint Venture or Sole Proprietorship. Any administratively incomplete, improperly signed, or unsigned Registration Application will be returned to the applicant.

FOR A CORPORATION (domestic or foreign)

- I certify that I am a President, Vice President, Secretary, Treasurer or in charge of a principal business function of the corporation

FOR A PARTNERSHIP

- I certify that I am a General Partner

FOR A LIMITED LIABILITY COMPANY

- I certify that I am a General Partner or General Manager

FOR AN ASSOCIATION

- I certify that I am the President or a member of the Board of Directors

FOR A JOINT VENTURE

- I certify that I am the President, General Partner or General Manager

FOR A SOLE PROPRIETORSHIP

- I certify that I am the Owner and Proprietor

If the Responsible Official wishes to certify an Authorized Representative, the official agreement below shall be checked and the appropriate names and signatures entered.

- I hereby certify that* (please print or type) _____ is an Authorized Representative and in that capacity shall represent the interest of the business (e.g., Corporation, Partnership, Limited Liability Company, Association Joint Venture or Sole Proprietorship) and may obligate and legally bind the business. If the business changes its Authorized Representative, a Responsible Official shall notify the Chief of the Office of Air Quality immediately; and/or,

I hereby certify that all information contained in this Poultry Incinerator Order Registration and any supporting documents appended hereto is, to the best of my knowledge, true, accurate and complete, and that all reasonable efforts have been made to provide the most comprehensive information possible.

Signature (please use blue ink)	_____	_____
	Responsible Official	Date
Name & Title (please print or type)	_____	_____
Signature (please use blue ink)	_____	_____
	Authorized Representative (if applicable)	Date
Registrant's Name	_____	
Telephone & Fax	_____	