

MEMORANDUM OF UNDERSTANDING BETWEEN THE COLORADO DEPARTMENT OF AGRICULTURE AND THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT REGARDING STORAGE, TREATMENT OR DISPOSAL OF LIVESTOCK CARCASSES DURING ANY ALL-HAZARDS EVENT

PREAMBLE

In the event of any occurrence that involves livestock carcasses that result either from mass mortality or from depopulation, such carcasses will need to be managed and disposed of in an appropriate manner. Such management and disposal must be conducted to prevent the spread of infection and cross-contamination into and among other receptors or media.

To ensure the safety of Colorado's public health and environment and to prevent an event that would be detrimental to Colorado's agricultural industry, Colorado must be prepared to provide its residents with effective and safe methods of carcass disposal, including approving disposal or treatment sites, to manage large quantities of carcasses that may result from any all-hazards event, any disease-related mass deaths of livestock, or any carcass depopulation wastes. In addition, in order to protect Colorado's environmental concerns, any depopulation and disposal must be executed in a manner that provides strict environmental and public health safeguards.

PARTIES AND EFFECTIVE DATE

The Parties to this Memorandum of Understanding ("Agreement") are the Colorado Department of Agriculture ("CDA") and the Colorado Department of Public Health and Environment ("CDPHE"). By signature of the authorized designee for each agency, the parties agree to comply with the terms of this Agreement, which shall be effective upon the date the last party executes this document.

I. PURPOSE

This Agreement is intended to define the roles and responsibilities of each party during 1) an event resulting in mass livestock mortality or, 2) an event in which the state veterinarian determines that depopulation of animals is required, and 3) when the event or depopulation results in the death of livestock requiring mass storage, treatment or disposal.

This Agreement is not intended to affect, and shall not be construed to affect, the approved management, storage, treatment or disposal of mortalities generated during routine agricultural operations or practices.

II. TERMS OF THIS AGREEMENT

Based upon the duties, responsibilities and roles articulated within this Agreement, the Parties to this document, by their signatures below, agree that in the event of any all-hazards event that

results in mass livestock mortality, as those terms are defined within this agreement, the Colorado Department of Agriculture shall exercise its authority as lead agency to respond to, direct, and otherwise manage any such event.

CDPHE hereby agrees that agricultural waste that is the result of an all-hazards event that results in mass livestock mortality, as those terms are defined within this document, is waste that is exempted from its regulatory oversight and that CDA shall direct and manage all activities related to any such waste that is created from any such event, from inception through clean-up.

III. DEFINITIONS AND STATUTORY REFERENCES

- A. “All-hazards event” means the occurrence of any catastrophic event or incident that is either natural, such as a blizzard, fire, flood, tornado, earthquake, or disease outbreak, or man-made and that could be of biological, chemical, radiological, nuclear or explosive origin.
- B. “Mass Livestock Mortality” means any situation that results in a large number of livestock carcasses and would be considered significantly higher than the normal death loss for that type of livestock production facility; it is not defined as death loss that is inherent within the scope of routine livestock production methods.
- C. Section 35-50-105(1), C.R.S. The commissioner [of Agriculture] is responsible for regulation related to livestock disease or other livestock emergencies among or affecting livestock in the state.
- D. Section 35-50-105(3), C.R.S. The commissioner [of Agriculture] may adopt, subject to the commissioner’s approval, all reasonable rules for the administration and enforcement of . . .
 - (l) [t]he standards and requirements for disposal of livestock carcasses.
- E. Section 30-20-101(6)(a), C.R.S. “Solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial or commercial operations or from community activities.
- F. Section 30-20-101(6)(b)(II), C.R.S. [“Solid waste” does not include] Agricultural wastes.
- G. 6 C.C.R. 1007-2, §1.2. “Agricultural wastes” means all solid wastes resulting from the raising of crops or animals on land zoned agricultural by local requirements, including animal manures, that are returned to the soils as fertilizer or soil conditioners. In addition, agricultural waste means all carcasses and carcass by-products resulting from any mass livestock mortality that is the result of an all-hazards event or depopulation ordered by the state veterinarian or other appropriately designated authority.

- H. Section 2-4-401(8), C.R.S. "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, limited liability company, partnership, association, or other legal entity.

IV. OBLIGATIONS, RESPONSIBILITIES AND ROLES

- A. CDA is responsible for regulation related to livestock disease and may adopt rules for the administration and enforcement of standards and requirements for disposal of livestock carcasses.
- B. Despite CDA's authorization to regulate the disposal of livestock carcasses, CDPHE regulates the storage, treatment and land disposal of solid waste.
- C. The parties hereby agree and acknowledge that in any event wherein the Commissioner of Agriculture exercises his authorities pursuant to § 35-50-105(1), C.R.S., to regulate emergencies related to livestock and livestock disease, CDA shall be the lead agency through its crisis management authority, as set forth in ESF 11 of the Colorado State Emergency Operations Plan, to establish and manage an action plan.
- D. The Parties agree that in any event wherein the Commissioner exercises his authorities pursuant to § 35-50-105(1), C.R.S., as they relate to livestock emergencies resulting in mass carcass disposal:
- i. in order to maintain the integrity of bio-security measures, the optimum and preferred methods of pathogen destruction are either disposal or CDPHE-approved treatment of livestock carcasses by a person on his own property;
 - ii. the people of Colorado will best be served by the parties' creating procedures and guidance for storage, treatment and disposal of livestock carcasses in advance of a pathogen or disease outbreak or other emergency event; and
 - iii. CDA and CDPHE have individual authorities and responsibilities for promulgating and adopting rules or creating procedures for disposal of livestock carcasses.
- E. CDA agrees to adopt rules, where reasonable and permissible pursuant to § 35-50-105(3), C.R.S., or to develop guidance or policies that follow best-practice methods and that consider the most recent scientific research and data, related to:
- i. standards and requirements for preparation for disposal or approved management, storage and treatment of livestock carcasses in the event of a pathogen or disease outbreak or any other all-hazards event that comply with existing CDPHE regulations, policies and best management practices.
- F. CDPHE agrees to provide assistance that will allow CDA to develop appropriate procedures that further the purpose of this Agreement.

- G. CDA agrees to include, as necessary and practical, CDPHE in all levels of CDA's development of procedures for management, storage, treatment and disposal of carcasses in the event of a pathogen or disease outbreak and to allow CDPHE input into the rules and procedures CDA develops in furtherance of this Agreement.
- H. CDPHE agrees to develop policies or guidance for administration and implementation that includes:
 - i. standards or criteria as appropriate for site location for mass carcass management, storage, treatment and disposal on state lands or on a person's own property as allowed and in compliance with 6 C.C.R. 1007-2, §1.4.1;
 - ii. criteria for an approval process for carcass disposal in permitted landfills;
 - iii. criteria for approved carcass management, storage, treatment and disposal or approved treatment for pathogen destruction such as composting or other approved methods; and
 - iv. criteria for site location, monitoring and testing for treatment on a person's own property or other approved sites.
- I. CDA agrees to provide assistance that will allow CDPHE to develop policies or guidance that will allow for the administration and implementation of the above-listed criteria and that further the purpose of this Agreement.
- J. CDPHE agrees to include CDA, as necessary and practical, in all levels of CDPHE's development of rules or procedures for disposal of livestock carcasses in the event of a pathogen or disease outbreak and to allow CDA input into the rules or procedures CDPHE develops in furtherance of this Agreement.
- K. CDA agrees to include CDPHE, as necessary and practical, in all levels of CDA's development of rules or procedures for disposal of livestock carcasses in the event of a pathogen or disease outbreak and to allow CDPHE input into the rules or procedures CDA develops in furtherance of this Agreement.
- L. CDPHE agrees to provide waivers to allow producers to introduce "other compatible materials" in accordance with 6 CCR 1007-2 §1.2 to compost on their own land when composting carcasses that result from mass livestock mortality that results from any all-hazards event as described and defined within this MOU.

V. **RULES AND PROCEDURES FOR CARCASS DISPOSAL**

- A. Current Rules and Procedures
 - 1. Colorado Department of Agriculture's sector-specific livestock emergency disease management plans.

2. National Agricultural Biosecurity Center Consortium, USDA APHIS Cooperative Agreement Project Carcass Disposal Working Group, August 2004.
3. 8 CCR 1201-19, Livestock Disease Control, Carcass Disposal Rules.

VI. TERM AND TERMINATION

This Agreement shall remain in effect unless and until terminated by written termination by one or both parties with notice to the other party.

STATE OF COLORADO

Colorado Department of Public Health and Environment

By:  Date: 6/7/11
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Doctor
Colorado Department of Public Health and Environment

STATE OF COLORADO

Colorado Department of Agriculture

By:  Date: 6-7-11
John Salazar
Commissioner Colorado Department of Agriculture