

Form #3

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 18, 2013

TO: **LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

FROM: (Agency Name, Address & Phone No.)
West Virginia Department of Agriculture
1900 Kanawha Blvd., East, Charleston, WV 25305
304-558-2206

LEGISLATIVE RULE TITLE: Inspection of Nontraditional, Domesticated Animals

1. Authorizing statute(s) citation WV Code 19-29-1 and 4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 7, 2013

b. What other notice, including advertising, did you give of the hearing?
Proposal was sent to licensed establishments and interested individuals that had inquired about rabbit slaughter.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 8, 2013

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 26, 2013

- f. Name, title, address and **phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Robert E. Pitts, DVM

Director

Meat and Poultry Inspection Division

State Capitol

1900 Kanawha Blvd., East

Charleston, WV 25305

Ph: (304)558-2206 Email: rpitts@wvda.us

- g. **IF DIFFERENT FROM ITEM 'F'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

Brief Summary

Additional sections were added to §61-23D-4 and §61-23D-6 to allow individuals to slaughter and sell up to 1000 rabbits per calendar year in a sanitary manner at the premises where they were raised. Since rabbit slaughter/processing facilities are very limited in West Virginia this would make available for small producers a means to process and market rabbits as a nontraditional source of agriculture.



**Meat & Poultry Inspection Division
West Virginia Department of Agriculture**

1900 Kanawha Blvd. E., Charleston, WV 25305
304-558-2206

Walt Helmick
Commissioner

Robert Pitts, DVM
Director

Statement of Circumstances

Rabbit producers have inquired on numerous occasions about slaughtering and selling domesticated rabbits to consumers and retail outlets. Rabbit inspection is not mandatory by the regulations adopted from the Federal Food Safety and Inspection Service. Each state has the option of regulating the inspection of rabbits and deciding whether it is mandatory or not since they are considered a nonamenable species. Regulations vary widely between states.

Regulations in West Virginia currently require that rabbits sold as human food must be slaughtered at an approved facility that has been approved for rabbit slaughter by the Meat and Poultry Inspection Division. Only two facilities in West Virginia are currently available for producers to take their rabbits and there has been no interest from additional facilities to become approved for rabbit slaughter. Passing these rules would enable numerous small producers in West Virginia to market their rabbits.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Inspection of Nontraditional, Domesticated Animals

Rule Title: _____

Type of Rule:

☒

Legislative

☐

Interpretive

☐

Procedural

Agency: _____

West Virginia Department of Agriculture

Address: _____

1900 Kanawha Blvd., East, Charleston, WV 25305

Phone Number: _____

304-558-2206

Email: rpittsdvm@yahoo.com**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

None - No registration fee is anticipated or asked for.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Inspection of Nontraditional, Domesticated Animals

Rule Title: _____

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

No fees will be charged.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

This is to allow the slaughter and sale of rabbits exempt from inspection up to 1000 rabbits per calendar year to assist small producers in having a market for their rabbits.

Date: May 31, 2013

Signature of Agency Head or Authorized Representative

Walt Delmont

**TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE**

**SERIES 23D
INSPECTION OF NONTRADITIONAL, DOMESTICATED ANIMALS**

FILED
2013 JUL 23 PM 2:31
OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

§61-23D-1. General.

1.1. Scope. -- Rules governing inspection of nontraditional domesticated animals such as antelope, bison, buffalo, deer, elk, reindeer, and rabbit and edible products derived from these animals are established in order to implement the requirements of W. Va. Code §19-29-1 et seq. "Production of Nontraditional Agriculture Products". W. Va. Code §19-29-4 authorizes the Commissioner of Agriculture to promulgate regulations to provide inspection of such animals, meat, and meat products.

1.2. Authority. -- W. Va. Code §§19-29-1 and 4.

1.3. Filing Date. --.

1.4. Effective Date. --.

§61-23D-2. Incorporation by Reference of Federal Regulations on Inspection of Exotic Animals and Rabbits.

2.1 The Regulations on Inspection of Exotic Animals (9 CFR, Part 352) and Inspection of Rabbits and Edible Products Thereof (9 CFR, Part 354) of the United States Department of Agriculture are hereby incorporated by reference in this rule with the exception of sections 352.5; 352.7 (a) and (b); 354.1 (n) and (u); 354.2 (a), (b), and (c); 354.20 through 354.33; 354.63 (c); 354.64; 354.65; 354.100 through 354.110; 354.143; 354.160; 364.161; 352.162; and 354.248 of the regulations which are not incorporated.

§61-23D-3. Definitions.

3.1. Definitions in the incorporated parts of the Federal regulations (9 CFR, Parts 352 and 354) are amended to read as follows:

3.1.1. "The Act" means the W. Va. Code §19-29-1 et seq.

3.1.2. "The United States Department of Agriculture" means the West Virginia Department of Agriculture.

3.1.3. "Secretary" means the Commissioner of Agriculture.

3.1.4. "Administrator", "Regional Director", and "Area Supervisor" mean the Director of the Meat Inspection Division of the West Virginia Department of Agriculture.

3.1.5. "The Food Safety and Inspection Service", "Service", and "Program" mean the Meat Inspection Division of the West Virginia Department of Agriculture.

3.1.6. "Official Plant" means an establishment licensed by the Commissioner of Agriculture.

3.1.7. "Exotic Animal" means a nontraditional animal domesticated from wild stock, either native or nonnative, including rabbits.

3.1.8. "U. S. Inspected" means West Virginia Department of Agriculture Inspected.

3.1.9. "U. S. Suspect" means West Virginia Department of Agriculture Suspect.

§61-23D-4. The Place of Slaughter and Processing of Nontraditional, Domesticated Animals.

4.1. The slaughter and processing of nontraditional, domesticated animals may take place at any commercial establishment licensed by the Commissioner of Agriculture pursuant to the W. Va. Code §19-2B-1 et seq.

4.2. The slaughter and processing of rabbits intended for sale in commercial outlets shall take place in rabbit slaughterhouses and/or rabbit meat processing establishments constructed according to the technical and sanitary provisions of the incorporated Federal regulations (9 CFR, Part 354).

4.3. The slaughter of rabbits exempt from inspection as provided by section 6.3 of this rule may take place at any commercial or custom slaughter establishment licensed by the Commissioner of Agriculture pursuant to the W. Va. Code §19-2B-1 et seq.

4.4. The slaughter and processing of nontraditional domesticated animals may be conducted at licensed establishments provided that the slaughter and processing operations are separated in time or space from the slaughter and processing of cattle, swine, sheep, and goats. The carcasses of nontraditional, domesticated animals and products derived from these animals shall be kept physically separated and properly identified to avoid any possibility of commingling products.

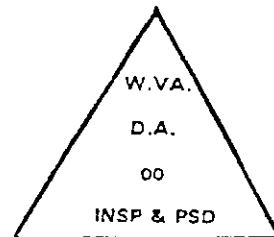
4.5 The slaughter of rabbits exempt from inspection as provided by section 6.4 of this rule may take place at the same premises where they were raised if the premises is registered with the Commissioner and the slaughter and/or processing is performed in a sanitary manner.

§61-23D-5. Official Inspection Marks.

5.1. Official Inspection Marks for Nontraditional, Domesticated Animals, Carcasses and Products Derived Therefrom, Except for Rabbits.

5.1.1. The official inspection mark shall be applied to inspected and passed carcasses and parts of carcasses by the authorized employee of the West Virginia Department of Agriculture or a plant employee working under his or her direct supervision.

5.1.2. The official inspection mark shall be in the form of a triangle and arrangement as shown in the example in this subdivision. The triangle side shall be approximately 2-1/2 inches (6.4 cm) long. It shall follow the wording: "West Virginia Department of Agriculture, Inspected and Passed", or its abbreviations as approved by the Director of the Meat Inspection Division. The number of the establishment where the animal was slaughtered and/or prepared, shall be used in lieu of "00".



5.2. Official Inspection Marks for Rabbits.

5.2.1. The official inspection mark approved for use on inspected and passed rabbit products shall be in the form of a circle and arranged as indicated in the example in this subdivision. The circle shall be 1-3/4 inches (4.5 cm) in diameter. It shall include the following wording: "Inspected for Wholesomeness by WV Department of Agriculture." The number of the establishment where the rabbits were slaughtered and/or prepared shall be used in lieu of "00".



5.3. Official Inspection Marks on Labels.

5.3.1. The inspection mark to be shown on labels need not be of the size illustrated above, provided that it is a sufficient size and of such color as to be conspicuously displayed and readily legible. The same proportions of letter size and boldness shall be maintained.

5.3.2. This inspection mark shall be applied by the licensed establishment using mechanical means and shall not be applied by a hand stamp.

5.3.3. The official inspection mark described in subsections 5.1 and 5.2 of this rule shall also be used on shipping containers, bond labels, artificial casings, and other articles with the approval of the Director of the Meat Inspection Division.

§61-23D-6. Exemptions.

6.1. This rule shall not apply to white-tailed deer (*Odocoileus virginianus*) and all its subspecies.

6.2. This rule shall not apply to nontraditional, domesticated animals which are slaughtered and/or processed and are not intended for sale in commercial outlets.

6.3. Up to one thousand (1,000) rabbits per calendar year at one establishment shall be exempt from antemortem, postmortem, and processing inspection, provided that the rabbits are slaughtered and/or processed at an establishment licensed by the Commissioner of Agriculture, and approved for rabbit slaughter operations.

6.4 Up to one thousand (1000) rabbits per calendar year at one premises shall be exempt from antemortem, postmortem, and processing inspection, provided that the rabbits are slaughtered and/or processed at the premises where they were raised and the premises is registered with the Commissioner of Agriculture.

§61-23D-7. Overtime and Holiday Inspection Service.

7.1. The management of a licensed establishment shall reimburse the Department for the cost of inspection service furnished on any holiday as specified in subsection 7.3 of this Section, or for providing more than forty (40) hours in any administrative workweek Saturday through Friday.

7.2. When a licensed establishment requires inspection service on a holiday or for more than eight (8) hours on any other day, it shall request the veterinary supervisor to furnish inspection during such period. The request shall be made at least seven (7) days before the holiday and at least two (2) days in advance of planned overtime.

7.3. Holidays shall be those specified in W. Va. Code §2-2-1 et seq.

7.4. The Commissioner shall determine from time to time the rate for overtime and holiday services.



West Virginia Food & Farm Coalition

An initiative of the West Virginia Community Development Hub
137 ½ East Main St., Oak Hill, WV 25901
Web: www.wvhub.org/wvffc Phone: 304.465.5447

Robert E. Pitts, DVM
Director, Meat and Poultry Inspection Division
West Virginia Department of Agriculture
1900 Kanawha Blvd. E.
Charleston, WV 25305

July 5, 2013

Re: Proposed Amendments to §61CSR23D

Dear Dr. Pitts,

We are writing to state our support of the Department's rule change to create an exemption allowing farmers to slaughter and process up to 1,000 rabbits on their farms without animal-by-animal inspection. The 1,000 rabbit exemption mirrors a current and longstanding exemption for on-farm poultry slaughter and processing and will provide business and revenue opportunities for small-scale rabbit producers and restaurants seeking to purchase locally-raised rabbit.

Background and Our Interest

The mission of the West Virginia Food and Farm Coalition is to support a statewide network of those involved in West Virginia's local food economies, with the goals of growing food and farm businesses while improving access to healthy, local food. We are especially dedicated to the success of small-but-growing West Virginia food businesses and beginning farmers focused on selling to local consumers.

The WV Food and Farm Coalition facilitates and supports four stakeholder-based Food and Farm Working Groups, including a Meat Processing Working Group, which has worked to identify opportunities and constraints in processing and marketing meats within West Virginia. The Meat Processing Working Group includes nine livestock farmers representing seven WV farms, and is advised by several representatives of support agencies, including the Meat and Poultry Inspection Division at the WV Department of Agriculture. A primary policy concern of this group has been restrictions to small-scale rabbit production created by the lack of a rule allowing rabbit producers to legally slaughter and process their animals on-farm without the use of expensive facilities.

Existing Limitations and Challenges facing WV Meat Farmers

West Virginia's agricultural landscape is made up primarily of small, independent farms; over 80 percent of which gross less than \$10,000 per year in farm revenue. The West Virginia Food & Farm Coalition and its Meat Processing Working Group have identified several farmers throughout the state



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who are interested in entering into rabbit production but have not done so for lack of a legal and affordable way to slaughter and process rabbits for market. Current state rules do not allow for the on-farm slaughter of rabbits, meaning farmers in the state interested in raising rabbits would have to rely on expensive and potentially far-flung state or federally inspected processing facilities to process their animals in a way that makes them legal for intrastate sale. The cost of transporting rabbits to and from these facilities—including fuel and travel expenses, as well as the cost of time spent away from the farm—makes small scale rabbit production unprofitable for Mountain State farmers.

The Demand for Small-Scale Meat Production in WV

Individuals and families in West Virginia have a growing interest in the availability of affordable local food, both for reasons of health as well as supporting the economy of their communities. West Virginia now boasts over 95 farmers markets, and the state's growing local food movement has been recognized as a model for Appalachia. Current U.S. Census of Agriculture data shows that over five years, 39% more farmers have begun targeting local customers, capturing a greater portion of the consumer food dollar by marketing their products as directly as possible to the end user.

The "buy local" trend among West Virginia volume buyers, from restaurants to schools to hospitals, likewise continues to grow sharply. One survey by the Farm2U Collaborative and the WV Small Farm Center showed that from 2006 to 2008, West Virginia restaurants and hotels increased purchases of local products by 360%. The West Virginia Department of Education this year committed \$250,000 in school food funds for local purchases. Over a dozen county school systems report buying directly from West Virginia farms, and four of these began buying since September 2011.

Restaurants in states that allow for affordable small-scale rabbit production have been able to introduce rabbit meat to their customers and create economic opportunities for farmers in their communities. Currently restaurants and resorts in Greenbrier, Pocahontas, and Monongalia counties offer rabbit on their menus, and restaurants in Ohio County have expressed interest in rabbit availability.

Rule Modeled on Longstanding Federal Poultry Exemption

The proposed rabbit exemption is modeled on a long-standing exemption created for small-scale poultry producers in 1968. Current West Virginia recognizes a federally created exemption that allows for on-farm slaughter and processing of up to 1,000 poultry in a calendar year without animal-by-animal inspection. Recognized by most states, the 1,000 animal Producer/Grower poultry exemption allows small farmers to feed their communities without falling under expensive requirements intended for large-scale producers. Under the exemption, poultry can only be sold within the state if it is produced at on-farm outlets, roadside stands, and at farmers markets; the same restriction would hold for rabbit meat.



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It is important to note that the proposed rule only applies to domesticated rabbits: farmers would not be permitted to capture and slaughter wild rabbits for sale. Rabbit slaughter would further be required to take place under sanitary conditions, and premises where rabbits are processed would be required to be registered with the WV Department of Agriculture.

Improved Opportunities Through the 20,000 Bird Exemption

The U.S. rabbit meat industry is valued at over \$20 million, with rabbit meat selling between \$8-\$15 per pound. If allowed to produce and slaughter small numbers of domesticated rabbits West Virginia's farmers could take advantage of the growing interest in fresh and locally produced foods and see increases in farm revenue.

On behalf of farmers, eaters, and families throughout the state the West Virginia Food & Farm Coalition would like to voice support for the proposed change in rules allowing farmers to take advantage of existing federal poultry inspections. Thank you for your time.

Respectfully,

A handwritten signature in black ink, appearing to read "Brandon W. Holmes".

Brandon W. Holmes

Policy Research
Fellow

WV Food and Farm
Coalition

A handwritten signature in black ink, appearing to read "Stephanie Tyree".

Stephanie Tyree
Director of
Community Engagement &
Policy

WV Community
Development Hub

A handwritten signature in black ink, appearing to read "Savanna Lyons".

Savanna Lyons

Project Director
WV Food and Farm
Coalition



**Meat & Poultry Inspection Division
West Virginia Department of Agriculture**

1900 Kanawha Blvd. E., Charleston, WV 25305
304-558-2206

Walt Helmick
Commissioner

Robert Pitts, DVM
Director

July 17, 2013

West Virginia Food & Farm Coalition
137 ½ East Main St.
Oak Hill, WV 25901

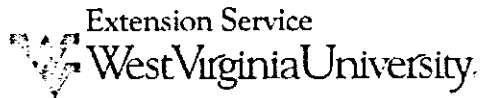
Dear West Virginia Food & Farm Coalition,

Thank you for the comments and support for the proposed rule changes to the Inspection of Nontraditional, Domesticated Animal Rules. Our division in the past has received interest from small producers throughout the state in opening up legal channels to slaughter and sell domesticated rabbits for meat. Interest from current facilities to process rabbits has been very limited and there are no signs of any additional facilities to be added within the current regulations. Your support is deeply appreciated.

Respectfully,

A handwritten signature in cursive script that reads "Robert E. Pitts".

Robert E. Pitts, DVM
Director, Meat and Poultry Inspection Division
West Virginia Department of Agriculture
1900 Kanawha Blvd. E.
Charleston, WV 25305



Dr. Robert Pitts, DVM
Director of Meat and Poultry Inspection
West Virginia Department of Agriculture
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Dr. Pitts,

My name is Chuck Talbott and I am the WVU Agricultural and Natural Resources Extension Agent for Putnam County. As advisor to the Putnam Farmers' Market, I have had several inquiries from three domesticated rabbit producers regarding processing options and requirements to sell rabbit meat. The nearest slaughter plant to process rabbits for these producers is 2.5 hrs away in Parkersburg. The added cost of transportation to the plant (two trips) and processing adds another \$5-\$8 per head in total costs, which represents approximately 80-100% or more of the production costs. Similar to the on-farm poultry processing exemption for 1000 animals, I propose that the WV Department of Agriculture pass similar ruling to allow on-farm harvesting of market rabbits for sale to the public without inspection .

Rabbit meat is often featured at fine French and Italian restaurants. Three generations ago, rabbit meat was commonplace in the diet of many rural West Virginia families. Our 4-H members participate in market rabbit projects and show their animals at county fairs. However, now there seems to be a disconnect between a gourmet delicacy and the "Bugs Bunny syndrome". When compared to other meat, including poultry and beef, rabbit is high in protein and low in fat, sodium and cholesterol (Lukefahr et al, 2004).

States vary widely in their slaughter, processing, and inspection regulations for rabbits. Similar to the exemption requirements imposed by the Texas Dept. of State Health Services (<http://www.dshs.state.tx.us/msa/grant.shtm#poultry>), rabbit producers could be trained in "Sanitary Standard Operating

Procedures" to help prevent contamination during processing and identify abnormalities at processing .

I appreciate your willingness to work with us on this request, and look forward to your assistance with this initiative.

Sincerely,

Chuck Talbott, Ph D
WVU Extension Agent for Putnam County
3389 Winfield Road,
Winfield, WV 25213

cc.

Scott Byars, Blue Barn Farm, rabbit producer from Paradise WV
Millie Tillman, rabbit producer from Paradise, WV
Stephanie Appleton, Mil-ton Farm, rabbit producer from Ona, WV
Nadine Perry, Chair, Meat Processing Working Group, WV HUB
Eddie Morgan, President, Putnam County Farm Bureau
Jennifer Williams, Director, WVU Extension Service
Joe Starcher, DVM, advisor to Meat Processing Working Group

References cited:

Lukefahr, S.D., P.R. Cheeke, J.I. McNitt, and N.M.
Patton. 2004. Limitations of intensive meat rabbit production in
North America: A review. Can. J. Anim. Sci. 84:349



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July 17, 2013

Chuck Talbott, Ph.D
WVU Extension Agent for Putnam County
3389 Winfield Road
Winfield, WV 25213

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Respectfully,

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