

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

FILED

APR 4 2 04 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

AMENDMENT TO AN EXISTING RULE: YES___, NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 16

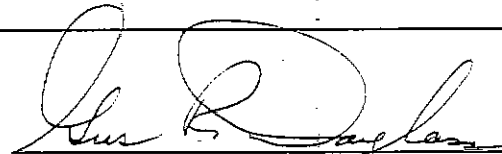
TITLE OF RULE BEING PROPOSED: Inspection of Meat and Poultry

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

AUTHORIZATION IS CITED IN (house or senate bill number) SB 162

SECTION 64-9-1(a), PASSED ON March 9, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: June 7, 1996



AUTHORIZED SIGNATURE

3.90

FILED

APR 4 2 04 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**TITLE 61
Legislative Rules
Department of Agriculture**

**Series 16
Inspection of Meat and Poultry**

§61-16-1. General

1.1. Scope - This rule is established in order to implement the requirements of West Virginia Code §19-2B-1 et seq. Inspection of Meat and Poultry, and to maintain and administer an effective State-Federal Cooperative Meat and Poultry Inspection Program in the State of West Virginia by establishing requirements which equal those imposed by the applicable provisions of the Federal Meat Inspection Act (34 Stat. 1260) as amended by the Wholesome Meat Act (81 Stat. 584, 84 Stat. 438, 92 Stat. 1069, U.S.C., Sec. 601 et seq.), and the Poultry Products Inspection Act (71 Stat. 441), as amended by the Wholesome Poultry Products Act (82 Stat. 791; U.S.C. 451 et seq.). This rule establishes general operating procedures, requirements and standards in the West Virginia Department of Agriculture, Meat and Poultry Inspection Division.

1.2. Authority - WV Code, §19-2B-3

1.3. Filing Date - April 4, 1996

1.4. Effective Date - June 7, 1996

1.5. Repeal of former rules - This rule repeals and replaces in their entirety Legislative Rules, Department of Agriculture, Series 16: Regulations Governing Meat Inspection 61CSR16, filed on April 11, 1991, and effective July 1, 1991.

§61-16-2. Incorporation by Reference of Federal Meat and Poultry Inspection Regulations

The Mandatory Meat Inspection Regulations (9 CFR, Parts 301 et seq.) and the Mandatory Poultry Products Inspection Regulations (9 CFR, Part 381) of the United States Department of Agriculture, promulgated in the Federal Register prior to January 1, 1995 are hereby adopted in their entirety with the exception of the deleted regulations specified in section 3 of this rule.

§61-16-3. Deleted Regulations

The following sections of the Federal regulations governing the mandatory meat inspection (9 CFR, Part 301 et seq.) and the mandatory poultry products inspection (9 CFR, Part 381) of the United States Department of Agriculture incorporated by reference under section 2 of this rule are deleted and are not rules of the West Virginia Department of Agriculture: 302.2; 303.1 (c); 303.1 (d)(2)(l)(c); 304; 305.2 (b); 307.5; 307.6; 312; 316.12; 316.13 (c); 317.7; 317.9; 318.8; 321; 322; 327; 329.6; 329.7; 329.8; 329.9; 331; 335; 381.6; 381.10 (a)(2), (5), (6), and (7); 381.10 (b); 381.13 (b); 381.16; 381.17; 381.19 (a)(2); 381.30; 381.31; 381.38; 381.39; 381.96, 381.98, 381.104 through 381.112; 381.123 (b)(1) and (4); 381.179; 381.185; 381.186; 381.195 through 381.236

In 9CFR 381.10(a)(3) and (4) the words "and the statement `Exempt - P. L. 90-492'" are deleted.

In 9CFR 381.123(b)(2) and (4) the words "and accompanied by the prefix `P' are deleted".

§61-16-4. Definitions

4.1. All terms used in this rule are those defined in WV Code 19-2B-2, except for the terms defined in this section.

4.2. Definitions in the incorporated parts of the Federal regulations on mandatory meat inspection (9 CFR, Part 301 et seq.) and mandatory poultry products inspection (9 CFR, Part 381) of the United States Department of Agriculture are amended to read as follows:

4.2.1. "The Act" means WV Code 19-2B-1 et seq.

4.2.2. "The United States Department of Agriculture" and "Department" means the West Virginia Department of Agriculture. For brevity, the acronym WVDA for the West Virginia Department of Agriculture is used in this rule.

4.2.3. "Secretary" means the Commissioner of Agriculture.

4.2.4. "Administrator", "Regional Director", and "Area Supervisor" mean the Director, Meat and Poultry Inspection Division, WVDA.

4.2.5. "Federal Meat Inspection", "Program", "Federal Inspection", "Federal Poultry Inspection", "Meat and Poultry Inspection Program", "Inspection Service", "Standards and Labeling Division", "Meat and Poultry Inspection", "Technical Services", and "Agency" mean the Meat and Poultry Inspection Division, WVDA.

4.2.6. "Federal" means State.

4.2.7. "Food Inspector", "Inspection Service Employee", "USDA Inspector", "USDA Program Official", and "Program Inspector" mean Inspector, Meat and Poultry Inspection Division, WVDA.

4.2.8. "Inspection Service Supervisor", "Veterinary Inspector", and "Circuit Supervisor" mean Veterinary Supervisor, Meat and Poultry Inspection Division, WVDA.

4.2.9. "Food Safety and Inspection Service" means the Meat and Poultry Inspection Division, WVDA.

4.2.10. "USDA Inspection Legend" and "Official Inspection Legend" mean WVDA Inspection Legend.

4.2.11. "Federally Inspected and Passed", "U.S. Inspected and Passed", "U.S. Inspected for Wholesomeness", and "Federally Inspected for Wholesomeness" mean WVDA Inspected and Passed.

4.2.12. "U.S. Passed for Cooking" means WVDA Passed for Cooking.

4.2.13. "U.S. Passed for Refrigeration" means WVDA Passed for Refrigeration.

4.2.14. "U.S. Inspected and Condemned" means WVDA Inspected and Condemned.

4.2.15. "U.S. Retained" or "U.S. Detained" means WVDA Retained.

4.2.16. "U.S. Rejected" means WVDA Rejected.

4.2.17. "U.S. Suspect" means WVDA Suspect.

4.2.18. "U.S. Condemned" means WVDA Condemned.

4.2.19. "U.S. Government Seals" means WVDA Seals.

4.3. Whenever an official form, certificate, or seal is designated by Federal regulations, the appropriate WVDA form, certificate, or seal shall be substituted.

§61-16-5. The United States Department of Agriculture's Guidelines and Procedures Applicable to the West Virginia Department of Agriculture.

The following publications prepared and approved by the United States Department of Agriculture are applicable to the West Virginia Department of Agriculture, as determined by the Commissioner of Agriculture:

- (1) "U.S. Inspected Meat and Poultry Packing Plants: A Guide to Construction and Layout", Agriculture Handbook 570;
- (2) "The Meat and Poultry Inspection Manual";
- (3) "Sanitation Handbook for Meat and Poultry Inspectors";
- (4) "Accepted Meat and Poultry Equipment" MPI-2;
- (5) "List of Proprietary Substances and Nonfood Compounds", Miscellaneous Publication Number 1419;
- (6) "Standards and Labeling Policy Book"; and
- (7) Food Safety and Inspection Service's Directives, Notices, and Bulletins.

§61-16-6. Licensing

6.1. Application for license and inspection - Every commercial slaughterer, custom slaughterer, commercial processor, custom processor, or distributor shall obtain a license from the Commissioner.

6.1.1. An applicant for a license shall make application on an official form furnished by the Commissioner and shall complete the application to include all information requested. Only the applicant named in the application may conduct operations at the establishment for which the license is granted.

6.1.2. The licensee shall apply for a new license when ownership or the location of the business changes.

6.2. Drawings and specification to be furnished.

6.2.1. Each applicant for the license shall submit to the Director, Meat and Poultry Inspection Division; WVDA;

6.2.1.1. Three (3) sets of complete drawings containing a plot plan showing the limits of the establishment's premises, locations in outline of buildings on the premises, cardinal points of the compass, and roads and railroads serving the establishment; the floor plans of the establishment for which inspection is requested, showing the locations of principal pieces of equipment, floor drains, principal drainage lines, handwashing basins and hose connections for cleanup purposes; and a room schedule showing the finish of walls, floors, and ceilings of all rooms in the establishments;

6.2.1.2. Three (3) sets of specifications which shall include statements, describing water supply, plumbing, drainage, refrigeration, equipment, lighting, and operations to be performed at the establishment; and

6.2.1.3. A current certificate from the local health authority certifying the water potability at the establishment and approval of the sewage disposal system of the establishment.

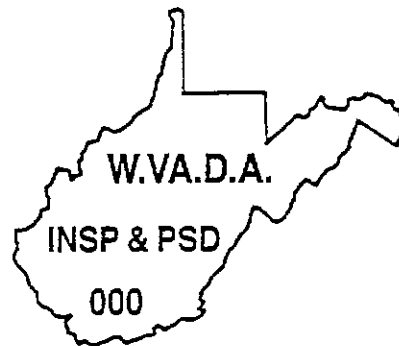
§61-16-7. Official Inspection Marks and Devices.

7.1. General - The inspection marks and devices, prescribed or referenced in this section are official marks and devices, for purposes of the WV Code, §19-2B-6 and shall be used in accordance with the provisions of this section and the United States Department of Agriculture regulations governing meat and poultry inspection as incorporated herein.

7.2. The inspection marks are affixed by the establishment under the oversight of the inspectors of the Meat and Poultry Inspection Division, WVDA.

7.3. Inspection legends on animal carcasses and parts of carcasses.

7.3.1. The inspection legend to identify WV inspected and passed animal carcasses, primal cuts, beef livers, beef tongues, beef hearts, and smoked meats not in casings and for application to materials that enclose carcasses or parts of carcasses, is as shown below in this subdivision. The establishment number shall be placed in the inspection legend by the establishment where the three zeros appear. The size of the inspection legend shall be 1-7/8"x2".



7.3.2. The inspection legend may be proportionally reduced in size, provided it shall not be smaller than 7/8"x1", for application to the loins and ribs of pork, beef tails, and sausages in animal casings.

7.4. Inspection legends on labels.

7.4.1. The inspection legend required to be shown on all labels for inspected and passed products of cattle, sheep, swine, goats, and poultry shall be in the form as shown in subdivision 7.3.1 of this rule, except that it need not be of the size illustrated, provided that it is of a sufficient size and of such color as to be conspicuously displayed and readily legible and the same proportions of letter size and boldness are maintained. The establishment number shall be placed in the inspection legend where the three zeros appear, and it may be preceded by the abbreviation "EST."

7.4.2. The inspection legend shall be applied on labels by mechanical means and shall not be applied by a hand stamp.

7.4.3. The inspection legend described in subdivision 7.3.1 of this section may also be used on shipping containers, band labels, artificial casings, and other articles with the approval of the Director, Meat and Poultry Inspection Division, WVDA.

7.5. Any brand, stamp, label, or other device approved by the Director, Meat and Poultry Inspection Division, WVDA, and bearing any inspection legend presented in this section is an official device for purposes of the WV Code §19-2B-6.

7.6. Custom stamps and devices to identify custom slaughtered animals or custom prepared product.

7.6.1. An establishment licensed for custom slaughter, custom processing operations, or both shall identify all custom carcasses, carcass parts, and custom meats with:

7.6.1.1. A custom stamp as provided for in subdivision 7.6.2 of this rule and a custom stamp with the words "NOT FOR SALE" in uppercase letters at least 3/8" in height applied to the animal carcass immediately after slaughter;

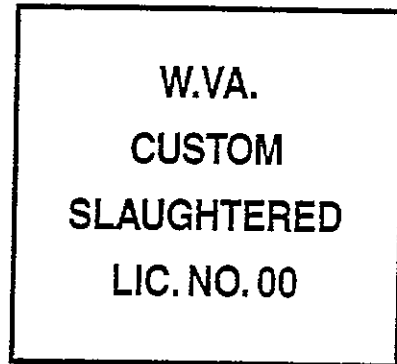
7.6.1.2. A custom stamp with the words "NOT FOR SALE" in uppercase letters at least 3/8" in height applied immediately upon receipt of a carcass or carcass parts which were slaughtered at a location other than the receiving licensed establishment;

7.6.1.3. A tag made from a material that is nontoxic and waterproof, that identifies the name of the owner or a number which identifies the owner of the meat, which must be placed on the carcass immediately after slaughter or on the carcass or carcass parts upon receipt. The tag may be omitted if the identification number is legibly applied directly on the meat or poultry by an approved marking pencil;

7.6.1.4. A stamp or legible printing or pressure sensitive tape with the words "NOT FOR SALE" in uppercase letters at least 3/8" in height on all custom wrapped or packaged meats or poultry immediately after final preparation. All custom meat or poultry must remain so identified while on the establishment's premises; and

7.6.1.5. A stamp, legible printing or pressure sensitive tape or tag attached with the words "NOT FOR SALE" in uppercase letters at least 3/8" in height on closed containers when utilized for packing unwrapped, wrapped, or packaged custom meats or poultry. All custom meat or poultry must remain so identified immediately after packing the containers and while on the establishment's premises.

7.6.2. The official custom stamp (brass faced) required to identify animal carcasses or parts of carcasses resulting from custom establishment slaughter is as shown in this subdivision. The size of the stamp shall be 2"X2" with uppercase letters 3/8" in height.



§61-16-8. Overtime and Holiday Inspection Service.

8.1. The management of a licensed establishment shall reimburse WVDA for the cost of inspection service furnished on any holiday as specified in subsection 8.3 of this Section, or for providing inspection services for more than eight (8) hours on any day or more than forty (40) hours in any administrative workweek, Saturday through Friday.

8.2. When a licensed establishment requires an 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 that 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.

8.3. Holidays are those specified in West Virginia Code §2-2-1.

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

1877

61-14

1
2
3
4
5
6
7
8
9

H. B. 4231

(By Delegates Douglas, Gallagher, Faircloth, Compton,
Linch and Riggs)

(Introduced January 29, 1996; referred to the
Committee on the Judiciary)

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

16 Be it enacted by the Legislature of West Virginia:

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

21 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
22 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

23 **§64-9-1. Commissioner of agriculture.**

1 (a) The legislative rules filed in the state

4231

7531

1 register on the fifteenth day of August, one thousand nine
2 hundred ninety-four, authorized under the authority of
3 section one, article twenty-nine, chapter nineteen, of this
4 code, modified by the commissioner of agriculture to meet
5 the objections of the legislative rule-making review
6 committee and refiled in the state register on the
7 fourteenth day of October, one thousand nine hundred
8 ninety-four, relating to the commissioner of agriculture
9 (West Virginia aquaculture farm rules, 61 CSR 23), are
10 authorized with the amendments set forth below:

11 On page 1, section 61-23-1, by striking out section
12 1.1 and substituting in lieu thereof the following:

13 "1.1 The Commissioner will inspect aquaculture
14 production on a voluntary basis for a period of three
15 years. At the end of this three year period the
16 Aquaculture Farm Rule shall be reviewed to determine
17 whether the rule should become mandatory. Aquaculture
18 producers wishing to participate in the voluntary
19 inspection program must apply in writing to the
20 Commissioner. Once a producer enters the voluntary program
21 they will be required to produce fish according to all of
22 the provisions of this rule for the remaining portion of
23 the three year period. The inspections will be conducted
24 on a risk assessment basis with the purpose of educating

1 farmers and assuring the production of wholesome, unspoiled
2 and unadulterated fish and fishery products."

3 On page 4, section 61-23-3, by striking out section
4 3.1 and substituting in lieu thereof the following:

5 "3.1 All producers of fish participating in the
6 voluntary inspection program outlined in this rule shall
7 have and implement a written Hazard Analysis Critical
8 Control Point Plan, approved by the commissioner, for each
9 location where fish are grown. The commissioner shall
10 furnish a model Hazard Analysis Critical Control Point Plan
11 to the producers for them to follow."

12 On page 5, section 61-23-3, by striking out section
13 3.4.

14 On page 6, section 61-23-4, by striking out all of
15 section 4.6 and substituting in lieu thereof the following:

16 "4.6 Septic tanks, home aeration units, vault privy,
17 or other sewage tanks shall not be located within 50 feet
18 of a well or groundwater supply used as an aquaculture
19 water source, or aquaculture production areas in order to
20 prevent fecal and other contamination of water where fish
21 are raised for human consumption, except that tanks or
22 other aquaculture production systems with a barrier
23 preventing possible contamination may be located closer."

24 On page 8, section 61-23-7, by striking out section

1 7.1 and substituting in lieu thereof the following:

2 "7.1 All fish transported for sale and/or processing
3 by producers participating in this voluntary program shall
4 be:"

5 On page 8, section 61-23-7, by striking out section
6 7.5 and substituting in lieu thereof the following:

7 "7.5 All shipments of human food fish to other
8 producers, wholesalers, retailers, and/or processors
9 required to operate under a HACCP plan shall be accompanied
10 by a written notification stating that any and all drugs,
11 feed and color additives, pesticides and/or medicated feeds
12 have been legally administered and withdrawal periods have
13 been followed. This notification shall include the name,
14 address, and telephone number of the grower; date of sale;
15 and the lot number of fish. This notification shall be
16 signed by the grower. Except that:"

17 On page 8, section 61-23-7, by striking out section
18 7.5.a. and substituting in lieu thereof the following:

19 "7.5.a. Shipments of fish to other producers before
20 the completion of a required withdrawal period shall be
21 accompanied by a written notification including the name
22 and dose of the drug, feed, color additive, pesticide,
23 and/or medicated feed; date administered and length of
24 required withdrawal period; date of sale; and lot number of

1 the fish. This notification shall be signed by the
2 grower."

3 On page 9, section 61-23-9, by striking out section
4 9.1 and substituting in lieu the following:

5 "9.1 It is prohibited to:"

6 On page 10, section 61-23-10, by striking out section
7 61-23-10 in its entirety, and renumbering the remaining
8 sections.

9 On page 11, section 61-23-12, by striking out section
10 12.1.a and substituting in lieu thereof the following:

11 "12.1.a. Enter and inspect, during reasonable hours,
12 any aquaculture production area participating in the
13 voluntary inspection program, where fish are produced,
14 sold, stored, or transported. The inspection includes, but
15 is not limited to, photographing, video taping, verifying,
16 copying and auditing computer files, records and papers
17 relating to the production of fish, as is necessary to
18 determine compliance with this rule and to investigate
19 consumer complaints. The inspection also includes, but is
20 not limited to, photographing, video taping, observing and
21 verifying the premises, vehicles, personnel and
22 activities;"

23 On page 12, section 61-23-12, by striking out section
24 12.1.i.

1 On page 13, section 61-23-13, by striking out section
2 13.3.

3 And,

4 On page 13, section 61-23-13, by striking out section
5 13.4.

6 (b) The legislative rules filed in the state register
7 on the twenty-second day of July, one thousand nine hundred
8 ninety-four, authorized under the authority of section two,
9 article nine, chapter nineteen, of this code, modified by
10 the commissioner of agriculture to meet the objections of
11 the legislative rule-making review committee and refiled in
12 the state register on the ninth day of August, one thousand
13 nine hundred ninety-four, relating to the commissioner of
14 agriculture (animal disease control, 61 CSR 1), are
15 authorized.

16 (c) The legislative rules filed in the state register
17 on the fifteenth day of August, one thousand nine hundred
18 ninety-four, authorized under the authority of section
19 four, article twenty-nine, chapter nineteen, of this code,
20 modified by the commissioner of agriculture to meet the
21 objections of the legislative rule-making review committee
22 and refiled in the state register on the eleventh day of
23 October, one thousand nine hundred ninety-four, relating to
24 the commissioner of agriculture (inspection of

1 nontraditional, domesticated animals, 61 CSR 23D), are
2 authorized.

3 (d) The legislative rules filed in the state register
4 on the fifteenth day of August, one thousand nine hundred
5 ninety-four, authorized under the authority of section ten,
6 article eleven-a, chapter nineteen, of this code, modified
7 by the commissioner of agriculture to meet the objections
8 of the legislative rule-making review committee and refiled
9 in the state register on the fourteenth day of October, one
10 thousand nine hundred ninety-four, relating to the
11 commissioner of agriculture (labeling of dairy products for
12 rBST or rBGH, 61 CSR 4D), are authorized.

13 (e) The legislative rules filed in the state register
14 on the fifteenth day of August, one thousand nine hundred
15 ninety-four, authorized under the authority of section one,
16 article twenty-nine, chapter nineteen, of this code,
17 modified by the commissioner of agriculture to meet the
18 objections of the legislative rule-making review committee
19 and refiled in the state register on the fourteenth day of
20 October, one thousand nine hundred ninety-four, relating to
21 the commissioner of agriculture (West Virginia fish
22 processing rules, 61 CSR 23D 23A), are authorized.

23 (f) The legislative rules filed in the state register
24 on the twenty-seventh day of July, one thousand nine

1 hundred ninety-five, authorized under the authority of
2 section three, article two-b, chapter nineteen, of this
3 code, modified by the commissioner of agriculture to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the
6 twentieth day of October, one thousand nine hundred
7 ninety-five, relating to the commissioner of agriculture
8 (inspection of meat and poultry, 61 CSR 16), are
9 authorized.

10

11 NOTE: The purpose of this bill is to authorize the
12 Commissioner of Agriculture to promulgate legislative rules
13 relating to the inspection of meat and poultry.

14

15 Strike-throughs indicate language that would be
16 stricken from the present law, and underscoring indicates
17 new language that would be added.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
1

SENATE BILL NO. 162

(By Senators Ross, Anderson, Boley,
Buckalew, Grubb and Macnaughtan)

[Introduced January 29, 1996; referred
to the Committee on

AGRICULTURE
THE JUDICIARY

6/1/6

A BILL to amend and reenact section one, article nine,
chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to authorizing the commissioner of agriculture to
promulgate legislative rules relating to the
inspection of meat and poultry.

Be it enacted by the Legislature of West Virginia:

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

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

§64-9-1. Commissioner of agriculture.

(a) The legislative rules filed in the state

1 register on the fifteenth day of August, one thousand nine
2 hundred ninety-four, authorized under the authority of
3 section one, article twenty-nine, chapter nineteen, of this
4 code, modified by the commissioner of agriculture to meet
5 the objections of the legislative rule-making review
6 committee and refiled in the state register on the
7 fourteenth day of October, one thousand nine hundred
8 ninety-four, relating to the commissioner of agriculture
9 (West Virginia aquaculture farm rules, 61 CSR 23), are
10 authorized with the amendments set forth below:

11 On page 1, section 61-23-1, by striking out section
12 1.1 and substituting in lieu thereof the following:

13 "1.1 The Commissioner will inspect aquaculture
14 production on a voluntary basis for a period of three
15 years. At the end of this three year period the
16 Aquaculture Farm Rule shall be reviewed to determine
17 whether the rule should become mandatory. Aquaculture
18 producers wishing to participate in the voluntary
19 inspection program must apply in writing to the
20 Commissioner. Once a producer enters the voluntary program
21 they will be required to produce fish according to all of
22 the provisions of this rule for the remaining portion of
23 the three year period. The inspections will be conducted
24 on a risk assessment basis with the purpose of educating

1 farmers and assuring the production of wholesome, unspoiled
2 and unadulterated fish and fishery products."

3 On page 4, section 61-23-3, by striking out section
4 3.1 and substituting in lieu thereof the following:

5 "3.1 All producers of fish participating in the
6 voluntary inspection program outlined in this rule shall
7 have and implement a written Hazard Analysis Critical
8 Control Point Plan, approved by the commissioner, for each
9 location where fish are grown. The commissioner shall
10 furnish a model Hazard Analysis Critical Control Point Plan
11 to the producers for them to follow."

12 On page 5, section 61-23-3, by striking out section
13 3.4.....

14 On page 6, section 61-23-4, by striking out all of
15 section 4.6 and substituting in lieu thereof the following:

16 "4.6 Septic tanks, home aeration units, vault privy,
17 or other sewage tanks shall not be located within 50 feet
18 of a well or groundwater supply used as an aquaculture
19 water source, or aquaculture production areas in order to
20 prevent fecal and other contamination of water where fish
21 are raised for human consumption, except that tanks or
22 other aquaculture production systems with a barrier
23 preventing possible contamination may be located closer."

24 On page 8, section 61-23-7, by striking out section

1 7.1 and substituting in lieu thereof the following:

2 "7.1 All fish transported for sale and/or processing
3 by producers participating in this voluntary program shall
4 be:"

5 On page 8, section 61-23-7, by striking out section
6 7.5 and substituting in lieu thereof the following:

7 "7.5 All shipments of human food fish to other
8 producers, wholesalers, retailers, and/or processors
9 required to operate under a HACCP plan shall be accompanied
10 by a written notification stating that any and all drugs,
11 feed and color additives, pesticides and/or medicated feeds
12 have been legally administered and withdrawal periods have
13 been followed. This notification shall include the name,
14 address, and telephone number of the grower; date of sale;
15 and the lot number of fish. This notification shall be
16 signed by the grower. Except that:"

17 On page 8, section 61-23-7, by striking out section
18 7.5.a. and substituting in lieu thereof the following:

19 "7.5.a. Shipments of fish to other producers before
20 the completion of a required withdrawal period shall be
21 accompanied by a written notification including the name
22 and dose of the drug, feed, color additive, pesticide,
23 and/or medicated feed; date administered and length of
24 required withdrawal period; date of sale; and lot number of

1 the fish. This notification shall be signed by the
2 grower."

3 On page 9, section 61-23-9, by striking out section
4 9.1 and substituting in lieu the following:

5 "9.1 It is prohibited to:"

6 On page 10, section 61-23-10, by striking out section
7 61-23-10 in its entirety, and renumbering the remaining
8 sections.

9 On page 11, section 61-23-12, by striking out section
10 12.1.a and substituting in lieu thereof the following:

11 "12.1.a. Enter and inspect, during reasonable hours,
12 any aquaculture production area participating in the
13 voluntary inspection program, where fish are produced,
14 sold, stored, or transported. The inspection includes, but
15 is not limited to, photographing, video taping, verifying,
16 copying and auditing computer files, records and papers
17 relating to the production of fish, as is necessary to
18 determine compliance with this rule and to investigate
19 consumer complaints. The inspection also includes, but is
20 not limited to, photographing, video taping, observing and
21 verifying the premises, vehicles, personnel and
22 activities;"

23 On page 12, section 61-23-12, by striking out section
24 12.1.i.

1 On page 13, section 61-23-13, by striking out section
2 13.3.

3 And,

4 On page 13, section 61-23-13, by striking out section
5 13.4.

6 (b) The legislative rules filed in the state register
7 on the twenty-second day of July, one thousand nine hundred
8 ninety-four, authorized under the authority of section two,
9 article nine, chapter nineteen, of this code, modified by
10 the commissioner of agriculture to meet the objections of
11 the legislative rule-making review committee and refiled in
12 the state register on the ninth day of August, one thousand
13 nine hundred ninety-four, relating to the commissioner of
14 agriculture (animal disease control, 61 CSR 1), are
15 authorized.

16 (c) The legislative rules filed in the state register
17 on the fifteenth day of August, one thousand nine hundred
18 ninety-four, authorized under the authority of section
19 four, article twenty-nine, chapter nineteen, of this code,
20 modified by the commissioner of agriculture to meet the
21 objections of the legislative rule-making review committee
22 and refiled in the state register on the eleventh day of
23 October, one thousand nine hundred ninety-four, relating to
24 the commissioner of agriculture (inspection of

1 nontraditional, domesticated animals, 61 CSR 23D), are
2 authorized.

3 (d) The legislative rules filed in the state register
4 on the fifteenth day of August, one thousand nine hundred
5 ninety-four, authorized under the authority of section ten,
6 article eleven-a, chapter nineteen, of this code, modified
7 by the commissioner of agriculture to meet the objections
8 of the legislative rule-making review committee and refiled
9 in the state register on the fourteenth day of October, one
10 thousand nine hundred ninety-four, relating to the
11 commissioner of agriculture (labeling of dairy products for
12 rBST or rBGH, 61 CSR 4D), are authorized.

13 (e) The legislative rules filed in the state register
14 on the fifteenth day of August, one thousand nine hundred
15 ninety-four, authorized under the authority of section one,
16 article twenty-nine, chapter nineteen, of this code,
17 modified by the commissioner of agriculture to meet the
18 objections of the legislative rule-making review committee
19 and refiled in the state register on the fourteenth day of
20 October, one thousand nine hundred ninety-four, relating to
21 the commissioner of agriculture (West Virginia fish
22 processing rules, 61 CSR ~~23D~~ 23A), are authorized.

23 (f) The legislative rules filed in the state register
24 on the twenty-seventh day of July, one thousand nine

1 hundred ninety-five, authorized under the authority of
2 section three, article two-b, chapter nineteen, of this
3 code, modified by the commissioner of agriculture to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the
6 twentieth day of October, one thousand nine hundred
7 ninety-five, relating to the commissioner of agriculture
8 (inspection of meat and poultry, 61 CSR 16), are
9 authorized.

10

11 NOTE: The purpose of this bill is to authorize the
12 Commissioner of Agriculture to promulgate legislative rules
13 relating to the inspection of meat and poultry.

14

15 Strike-throughs indicate language that would be
16 stricken from the present law, and underscoring indicates
17 new language that would be added.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

FILED

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

(Plus all the volunteer help we can get)

MAY 15 9 36 AM '96

TO: Dr. W. J. Charminski

AGENCY: Agriculture

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: May 8, 1996

THE ATTACHED RULE 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: 16 TITLE: 61 Agriculture

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: [Signature]

TITLE OF PERSON SIGNING: DIRECTOR, MEAT & POULTRY INSP. DIVISION

DATE: May 10, 1996 WVDA

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

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

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



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

March 12, 1996

Dr. W. J. Charminski
Agriculture
Meat Inspection Division
1900 Kanawha Blvd East
Charleston, WV 25305

SB 162 authorizing, **Title 61, Series 16, Rules on Inspection of Meat & Poultry** passed the Legislature on **March 9, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **SB 162** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 162 Section 64-9-1(a)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division