

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #3

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1998 AUG 10 AM 9:05  
OFFICE OF THE SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Agriculture TITLE NUMBER: 61

CITE AUTHORITY Chapter 19-2B

AMENDMENT TO AN EXISTING RULE: YES  NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: 16

TITLE OF RULE BEING AMENDED: Rules and Regulations Governing  
Meat Inspection

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_  
\_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
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DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:

LEGISLATIVE RULE TITLE:

1. Authorizing statute(s) citation Code of West Virginia  
Chapter 19, Article 2B
2. a. Date filed in State Register with Notice of Hearing:  
July 6, 1990
- b. What other notice, including advertising, did you give of the hearing?  
None
- c. Date of hearing (s): August 7, 1990
- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received X
- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:  
(be exact)  
August 10, 1990
- f. Name and phone number of agency person to contact for additional information:  
Dr. W. Jan Charminski, Director  
Meat Inspection Division, West Virginia Dept. of Agriculture  
Phone: 348-2207

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

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b. Date of hearing: 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

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d. Attach findings and determinations and reasons:

Attached N/A

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TITLE 61  
LEGISLATIVE RULES  
DEPARTMENT OF AGRICULTURE

SERIES 16  
REGULATIONS GOVERNING MEAT INSPECTION

**61-16-1. General**

1.1 Scope - Revised regulations governing meat inspection are established in order to implement the requirements of Chapter 19, Article 2B "Inspection of Animals, Meat and Meat Products" of the Code of West Virginia, and to maintain and administer an effective Federal-State Cooperative Meat Inspection Program in this State by establishing regulations and 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, 21 V.S.C. Sapp., Section 601 et seq.). The following regulations establish general operating rules, procedures, requirements and standards in the West Virginia Department of Agriculture, Meat Inspection Division.

1.2. Authority - Code of West Virginia, Chapter 19, Article 2B.

1.3. Filing Date -

1.4. Effective Date -

1.5. Repeal of former rules and regulations - These regulations repeal and replace in their entirety Regulations Governing Meat Inspection, West Virginia Department of Agriculture, Chapter 19-2B, Series XVI, filed on September 3, 1980, and effective November 10, 1980.

**61-16-2. Incorporation by Reference of Federal Meat Inspection Regulations**

The Mandatory Meat Inspection Regulations (9 CFR, Parts 301 et seq.) of the United States Department of Agriculture adopted pursuant to the Federal Meat Inspection Act (34 Stat. 1260) as amended by the Wholesome Meat Act (81 Stat. 584, 21 U.S.C. Supp., Section 601 et seq.) and other laws, is hereby adopted in its entirety with the exception of the deleted regulations specified in section 3.

### 61-16-3. Deleted Regulations

The following sections of the Federal regulations governing the mandatory meat inspection (9 CFR, Part 301 et seq.) of the United States Department of Agriculture shall be deleted and shall not become regulations of the West Virginia Department of Agriculture: 302.2; 303.1(c); 303.1(d)(3)(f); 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.

### 61-16-4. Definitions

4.1. Definitions in the incorporated parts of the Federal regulations governing mandatory meat inspection (9 CRF Part 301 et seq.) of the United States Department of Agriculture are amended to read as follows:

4.1.1. "The Act" shall mean Chapter 19, Article 2B of the Code of West Virginia.

4.1.2. "The United States Department of Agriculture" shall mean the West Virginia Department of Agriculture.

4.1.3. "Secretary" shall mean Commissioner of Agriculture.

4.1.4. "Administrator", "Regional Director", and "Area Supervisor" shall mean the Director, Meat Inspection Division.

4.1.5. "Federal Meat Inspection" and "Program" shall mean the Meat Inspection Division, West Virginia Department of Agriculture.

4.1.6. "Food Inspector" shall mean meat inspector.

4.1.7. "Food Safety and Inspection Service" shall mean the Meat Inspection Division, West Virginia Department of Agriculture.

4.1.8. "USDA Inspection Legend" shall mean W.Va. Inspection Legend.

4.1.9. "Federally Inspected and Passed" and "U.S. Inspected and Passed" shall mean W.Va. Inspected and Passed.

4.1.10. "U.S. Passed for Cooking" shall mean W.Va. Passed for Cooking.

4.1.11. "U.S. Passed for Refrigeration" shall mean W.Va. Passed for Refrigeration.

4.1.12. "U.S. Inspected and Condemned" shall mean W.Va. Inspected and Condemned.

4.1.13. "U.S. Retained" or "U.S. Detained" shall mean W.Va. Retained.

4.1.14. "U.S. Rejected" shall mean W.Va. Rejected.

4.1.15. "U.S. Suspect" shall mean W.Va. Suspect.

4.1.16. "U.S. Condemned" shall mean W.Va. Condemned.

4.1.17. "U.S. Government Seals" shall mean W.Va. Department of Agriculture seals.

4.2. Whenever an official form is designated by federal regulation, the appropriate West Virginia form will 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 shall be applicable to the West Virginia Department of Agriculture:

(1) "U.S. Inspected Meat and Poultry Packing Plants: A Guide to Construction and Layout", Agriculture Handbook 570 (January, 1986)

(2) "The Meat and Poultry Inspection Manual" (December, 1979, with subsequent updates)

(3) "Sanitation Handbook for Meat and Poultry Inspectors" (July 1982)

(4) "Accepted Meat and Poultry Equipment", MPI-2 (November, 1989)

(5) "List of Propriety Substances and Nonfood Compounds", Miscellaneous Publication Number 1419 (March 1990)

(6) "Standards and Labeling Policy Book" (January 1986, with subsequent updates)

(7) Food Safety and Inspection Service's Directives

## 61-16-6. Licensing

### 6.1. Application for License and Inspection

6.1.1. Before the license is issued and inspection granted, each person who intends to conduct operations at an establishment subject to the Law, whether tenant, subsidiary, or landlord, shall make application therefor to the Commissioner for license and inspection.

6.1.2. Every application under this section shall be made on an official form furnished by the Commissioner and shall be completed to include all information requested. Each applicant for inspection shall be held responsible for compliance with the Law and regulations governing meat inspection, when the license is granted. Preparation of product and other operations at the establishment for which the license is granted may be conducted only by the applicant named in the application.

6.1.3. In cases of ownership or location change, a new application shall be made.

### 6.2. Grant or Refusal of License

6.2.1 The Commissioner shall grant the license upon his determination that the applicant and the establishment are eligible therefor by having met all legal requirements; likewise, the Commissioner shall refuse to grant the license at any establishment if he determines that it does not meet the requirements of the law or the regulations governing meat inspection, or that the applicant has not received approval of blueprints, specifications, labels or containers to be used at the establishment. When the license is refused for any reason, the applicant shall be informed in writing of the action and the reasons therefor and afforded an opportunity to present his views at a hearing.

6.2.2. License may be refused in accordance with humane slaughter and handling provisions of Article 2E Humane Slaughter of Livestock, Chapter 19, Code of West Virginia.

### 6.3. Drawings and Specifications to be Furnished

6.3.1. Each applicant for the license shall submit to the Director, Meat Inspection Division:

6.3.1.1. Three (3) sets of complete drawings containing 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; a plot plan showing 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; and a room schedule showing the finish of walls, floors, and ceilings of all rooms in the establishment;

6.3.1.2. Three (3) sets of specifications which shall include statements describing water supply, plumbing, drainage, refrigeration, equipment, lighting, and operations of the establishment related to sanitation and proper performance of inspection.

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

6.4. Applicants for grant of license may request information from the Director, Meat Inspection Division, concerning the requirements before submitting blueprints and specifications or other documents required by this section.

#### **61-16-7. Official Marks, Devices and Certificates**

7.1. General-The marks, devices, and certificates prescribed or referenced in this section shall be official marks, devices, and certificates for purposes of the Law, and shall be used in accordance with the provisions of this section and the regulations governing meat inspection from the USDA as incorporated herein.

7.2. Official marks and devices to identify inspected and passed products of cattle, sheep, swine and goats - The official inspection legend to be applied to W.Va. inspected and passed carcasses and parts of carcasses of cattle, sheep, swine and goats, meat food products in animal casings, and other products approved by the Director, Meat Inspection Division, shall be in the appropriate form as hereinafter specified.

7.2.1. For application on sheep carcasses, the loins and ribs of pork, beef tails, and the smaller varieties of sausage and meat food products in animal casings as shown below:



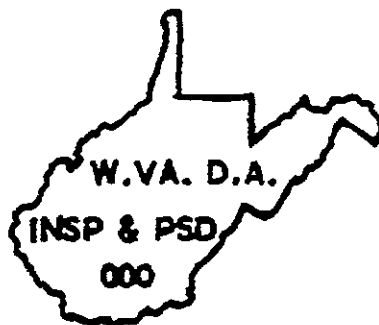
The size of the inspection legend shall be 7/8" x 1".

7.2.2. For application to calf and goat carcasses and on the larger varieties of sausage and meat food products in animal casings as shown below:



The size of the inspection legend shall be 1 1/4" x 1 3/8".

7.2.3. For application to beef and hog carcasses, primal cuts therefrom, beef livers, beef tongues, beef hearts, and smoked meats not in casings, and for application to burlap, muslin, cheesecloth, heavy paper or other acceptable material that encloses carcasses or parts of carcasses, as shown below:



The size of the inspection legend shall be 1 7/8" x 2"

### 7.3. Inspection legends and labels.

7.3.1. The official inspection legend required to be shown on all labels for inspected and passed products of cattle, sheep, swine, and goats shall be in the form as shown in paragraph 7.2.3, 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.

7.3.2. The official mark shall be applied by mechanical means and shall not be applied by a hand stamp.

7.3.3. The official inspection legend described in paragraph 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 Inspection Division.

7.3.4. Any brand, stamp, label, or other device approved by the Director, Meat Inspection Division, and bearing any official mark presented in this section shall be an official device for purposes of the Law.

7.4. Official marks and devices to identify custom slaughtered animals or custom prepared product.

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

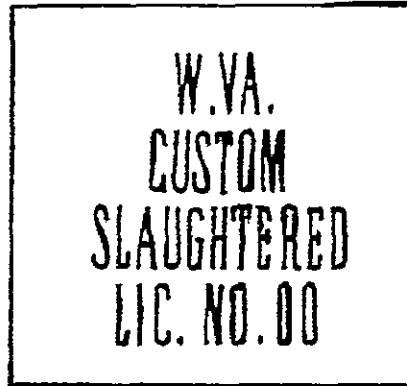
7.4.1.1. A custom stamp as provided for in paragraph 7.4.2 of these regulations and with words "NOT FOR SALE" at least three-eighths of an inch in height. The custom stamp and the words "NOT FOR SALE" shall be applied immediately after slaughter, or upon receipt at the establishment.

7.4.1.2. A tag made from a material that is nontoxic and waterproof, immediately after slaughter, or upon receipt at the establishment, that identifies name of owner or a number which identifies owner of meat: Provided, that the tag may be omitted if the identification number is legibly applied directly on the meat by an approved marking pencil.

7.4.1.3. A stamp or legible printing or pressure sensitive tape with words "NOT FOR SALE" on all custom wrapped or packaged meats immediately after final preparation and must remain so identified while on the establishment's premises.

7.4.1.4. A stamp, legible printing or pressure sensitive tape or tag attached with words "NOT FOR SALE" on closed containers when utilized for packing unwrapped, wrapped, or packaged custom meats and must remain so identified immediately after packing containers and while on the establishment's premises.

7.4.2. The official custom stamp (brass faced) required to identify carcass or parts of carcasses of custom slaughter animals in shown below.



The size of the stamp shall be 2"x 2" with letters 3/8" in height

**61-16-8. Articles, Livestock or Animal Subject to Seizure and Condemnation.**

8.1 Any carcass, part of a carcass, meat or meat food product, or any dead, dying, disabled, or diseased livestock or animal, that is being transported in intrastate commerce or is otherwise subject to Sections 6 and 10 of Article 2-B, Chapter 19 of the Code of West Virginia, or is held for sale in West Virginia after such transportation is subject to seizure and condemnation under Sections 6 and 10 of the heretofore cited statute if such article, livestock or animal:

8.1.1. Is or has been prepared, sold, transported or otherwise distributed or offered or received for distribution in violation of the Law; or

8.1.2. Is capable of use as human food and is adulterated or misbranded, or

8.1.3. In any other way is in violation of the statutory mandates.

8.2. Procedure for seizure, condemnation or disposition- Any article, livestock or animal subject to seizure and condemnation under this Section shall be liable to be proceeded against and seized and condemned, and disposed of at any time, by the authority of the Commissioner as specified in Sections 6 and 10 of the heretofore cited statute. The Commissioner may order and direct the person having custody or possession of such carcass, part of a carcass, meat or meat product of livestock, or article, or the licensee of the establishment in which it is found, to be responsible for the disposition thereof; as well as any necessary storage, handling, or other incidentals related thereto.

8.3. Authority for condemnation or seizure under other provisions of the law - The provisions of this Section relating to seizure, condemnation, and disposition of articles, livestock, or animals do not derogate from authority for condemnation or seizure conferred by other provisions of the Law, or other laws.

#### **61-16-9. Criminal Offenses and Prohibitions**

The Law (Article 5-A, Bribery and Corrupt Practices, Chapter 19, Code of West Virginia) contains prohibitions and criminal provisions with respect to numerous offenses specified in the Law and said Article, including but not limited to bribery of Department employees, receipt of gifts by Department employees, and forcible assaults on, or other interference with, Department employees while engaged in, or on account of, the performance of their official duties under the Law.

#### **61-16-10. Overtime and Holiday Inspection Service**

10.1. The management of an official establishment shall reimburse the Department for the cost of inspection service furnished on any holiday as specified in subsection 10.3 of this section, or for providing inspection for more than eight (8) hours on any day or more than forty (40) hours in any administrative workweek ~~Sunday~~ Saturday through ~~Saturday~~ Friday.

10.2. When an official 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.

10.3. A holiday to be counted with respect to State employees shall be those legally observed by the State of West Virginia.

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

FOR THE SECRETARY OF STATE

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The West Virginia Department of Agriculture has not received any comments in response to the notice published in the West Virginia Register, Volume VII, Issue 29, July 13, 1990.

Likewise, no comments were presented during the public hearing on the proposed rule held on August 7, 1990.

However, the Department of Agriculture has decided to make one minor correction in the proposed rule in order to adhere to the Departmental policy on Overtime/Wage and Hour Regulations. On page 9 of the proposed rule (61-16-10-1) the administrative work week Sunday through Saturday has been changed to Saturday through Friday since this is the definition of the workweek in our policies.

No other changes have been made in the proposed rule.

FILED

1990 AUG 10 AM 9:05

OFFICE OF THE  
SECRETARY OF STATE