

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

FILED

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**OFFICE OF WEST VIRGINIA
SECRETARY OF STATE**

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

AGENCY: Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY Chapter 19, Article 29

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 23D

TITLE OF RULE BEING PROPOSED: Regulations Governing Inspection of
Nontraditional, Domesticated Animals

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.

Robert H. Mowbray
Asst Commissioner

4.20

DATE: August 15, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Gus R. Douglass, Commissioner of Agriculture

LEGISLATIVE RULE TITLE: Regulations Governing Inspection of Nontraditional Domesticated Animals

1. Authorizing statute(s) citation Chapter 19, Article 29

2. a. Date filed in State Register with Notice of Hearing

N/A

b. What other notice, including advertising, did you give of the hearing?

N/A

c. Date of Hearing(s) N/A (only written comments)

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

Attached one No comments received

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

August 15, 1994

f. Name and phone number(s) of agency person(s) to contact for additional information:

Dr. Warren J. Charminski, Director, Meat Inspection Division

(304) 558-2207

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

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?

August 15, 1994

d. Attach findings and determinations and reasons:

Attached Letter from Snowy Creek and our response

PLEASE NOTE:

No hearings were scheduled; only a 30 day comment period was established.

**Title 61
Legislative Rules
Department of Agriculture**

**Series 23D
Regulations Governing Inspection of Nontraditional,
Domesticated Animals**

§61-23D-1. General

1.1 Scope - Regulations governing inspection of nontraditional domesticated animals such as antelope, bison, buffalo, deer, elk, reindeer, and rabbit and edible products derived thereof are established in order to implement the requirements of Chapter 19, Article 28 "Production of Nontraditional Agriculture Products" of the Code of West Virginia. Section 19-29-1 authorizes the Commissioner of Agriculture to promulgate regulations to provide inspection of such animals, meat, and meat products.

1.2 Authority - Code of West Virginia, Chapter 19, Article 29.

1.3 Filing date -

1.4 Effective date -

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

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 adopted with the exception of the deleted regulations specified in section 3 of these regulations.

§61-23D-3. Deleted Regulations

The following sections of the Federal regulations governing the inspection of exotic animals and rabbits and edible products thereof (CFR, Parts 352 and 354) of the United States Department of Agriculture shall be deleted and shall not become regulations of the West Virginia Department of Agriculture: 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.

§61-23D-4. Definitions

4.1 Definitions in the adopted parts of the Federal regulations are amended to read as follows:

4.1.1 "The Act" means the Code of West Virginia Chapter 19, Article 29.

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

4.1.3 "Secretary" means Commissioner of Agriculture.

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

4.1.5 "The Food Safety and Inspection Service", "Service", and "Program" mean the Meat Inspection Division.

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

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

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

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

§61-23D-5. The Place of Slaughter and Processing of Nontraditional, Domesticated Animals

5.1 The slaughter and processing of nontraditional, domesticated animals may take place at any commercial establishment licensed by the Commissioner of Agriculture pursuant to the Code of West Virginia, Chapter 19, Article 2B.

5.2 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 adopted Federal regulations (9 CFR, Part 354).

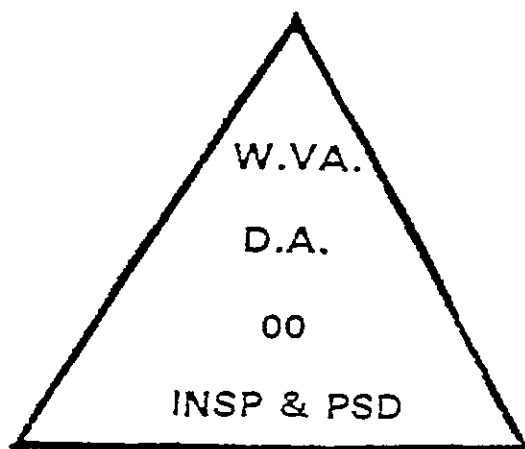
5.3 The slaughter of rabbits exempt from inspection as provided by section 7.3 of these regulations may take place at any commercial or custom slaughter establishment licensed by the Commissioner of Agriculture pursuant to the Code of West Virginia Chapter 19, Article 2B.

5.4 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 slaughter and processing of cattle, swine, sheep, and goats. The carcasses of nontraditional, domesticated animals and products derived thereof shall be kept physically separated and properly identified to avoid any possibility of commingling products.

§61-23D-6. Official Inspection Marks

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

6.1.1 The official inspection mark to be applied to inspected and passed carcasses and parts of carcasses shall be in the form of a triangle and arrangement as shown in the example below. 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, Meat Inspection Division. The number of the establishment where the animal was slaughtered and/or prepared, shall be used in lieu of "00".



6.2 Official Inspection Marks for Rabbits.

6.2.1 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 below. 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".



6.3 Official Inspection Marks on Labels.

6.3.1 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.

6.3.2 This inspection mark shall be applied by mechanical means and shall not be applied by a hand stamp.

6.3.3 The official inspection mark described in 6.1 and 6.2 shall also be used on shipping containers, bond labels, artificial casings, and other articles with the approval of the Director, Meat Inspection Division.

§61-23D-7. Exemptions

7.1 These regulations shall not apply to white-tailed deer (*Odocoileus virginianus*) and all its subspecies.

7.2 These regulations shall not apply to nontraditional, domesticated animals which are slaughtered and/or processed and are not intended for sale in commercial outlets.

7.3 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.

§61-23D-8. Overtime and Holiday Inspection Service

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

8.2 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.

8.3 Holidays shall be those specified in WV Code 2-2-1 et seq.

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



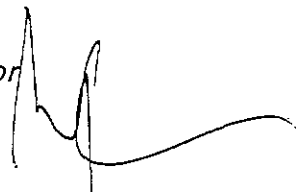
FORGING A NEW ERA IN WEST VIRGINIA AGRICULTURE

Gus R. Douglass, Commissioner
Robert G. "Bob" Morris, Assistant Commissioner

MEMORANDUM

DATE: August 15, 1994

TO: Legislative Rule-Making Review Committee

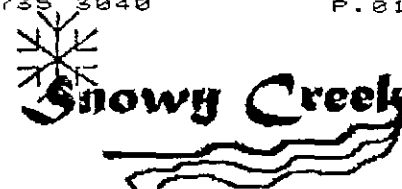
FROM: Dr. Warren J. Charminski, Director
Meat Inspection Division
Department of Agriculture 

SUBJECT: Comments received on Regulations Governing Inspection
of Nontraditional, Domesticated Animals

In response to our proposed regulations, we only received one letter with comments on the subject. Mr. Cris Shaffer, Secretary of Snowy Creek, P. O. Box 4, Eglon, West Virginia 26716 faxed a letter with his comments on August 12, 1994. Both the letter and my response are attached. Since Mr. Shaffer was only interested in the implementation date of the proposed regulations and rabbit carcass dressing procedures which are beyond the scope of the regulations, there has been no need to modify the proposed rules.

WJC:jrc

Enclosures



Fresh and Pure as West Virginia Snow

Dr. W. J. Charminski
Director, Meat Inspection
West Virginia Department of Agriculture
1900 Kanawha Blvd.
Charleston, WV 25305-0179

Dear Dr. Charminski,

Our company wishes to comment on the proposed regulations governing the inspection of nontraditional domesticated animals as filed on July 15, 1994.

While we agree that a control needs to be established on the slaughter and processing of domestic rabbit and large wholesalers are expecting a certification, we ask that this be allowed to exist on a voluntary basis, in such:

The rabbit processing industry is just now trying to get rooted in West Virginia. The production end is coming relatively easy. It is the marketing and slaughter that is requiring the effort.

In our efforts to secure the slaughter facilities from existing local shops, we are finding them to be unsure of the practice/procedure which will be accepted under inspection, for example:

must the animal be racked and case-skinned or can it be tabled, the back hide split and the skin pulled both ways before being hanged for further dressing and cutting?

If an exemption from mandatory inspection is not possible for rabbit, we ask for a one year delay in its inception. In this extra year, infant companies such as ours can find more consistent markets, gain working capital, a "get a feel" for this particular business.

Of course, you know we will work within the framework established, but would appreciate your consideration of this before a decision is reached for its implementation. For this review, we will be grateful.

Sincerely,

Cris Shaffer

Cris Shaffer
Secretary
Snowy Creek, P.O.Box 4, Eglon, WV 26716 fax 304-735-3040

Mailed 8/15/94



FORGING A NEW ERA IN WEST VIRGINIA AGRICULTURE

Gus R. Douglass, Commissioner
Robert G. "Bob" Morris, Assistant Commissioner

August 15, 1994

Mr. Cris Shaffer, Secretary
Snowy Creek
P. O. Box 4
Egdon, West Virginia 26716

Dear Mr. Shaffer:

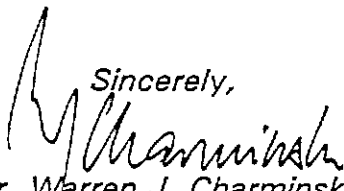
Thank you for your comments on proposed regulations on inspection of domesticated rabbits which you faxed to my office on August 12, 1994.

I have thoroughly analyzed your comments and I do not see any conflict between them and the proposed regulations. Basically, you made comments on two aspects of the proposed regulations: (1) effective date and (2) requirements for dressing procedures. Let me respond to these concerns.

1.) You proposed that one year delay in implementation of the regulations would be desirable. I want to advise you that the new regulations will not take effect earlier than July 1, 1995. After that date, we anticipate a phase-in period for implementation.

2.) The two alternative carcass skinning procedures described in your letter are not addressed in the proposed regulations. In general, sanitary dressing procedures are required and any procedure which minimizes carcass contamination is acceptable.

Again, thank you for your comments. Let me take this opportunity to assure you that it is in the interest of the West Virginia Department of Agriculture that every business, especially agriculture-related, succeeds. Thus, we will work closely with you to make sure that the implementation of the regulations on rabbit inspection will not cause undue hardship for your business.

Sincerely,

Dr. Warren J. Charminski
Director
Meat Inspection Division