

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Do Not Mark In This Box

2013 JUN -5 PM 1:22

Form #2

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative CITE AUTHORITY: WV Code 19-29-1 and 4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 23D

TITLE OF RULE BEING AMENDED: Inspection of Nontraditional, Domesticated Animals

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 8, 2013 AT 4:00 P.M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Department of Agriculture

Meat and Poultry Inspection Division
Attn: Robert E. Pitts, DVM

State Capitol
1900 Kanawha Blvd., East

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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.

**TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE**

2013 JUN -5 PM 1:22

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

§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. -- April 17, 1995.

1.4. Effective Date. -- July 1, 1995.

§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; 354.161; 354.162; 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.

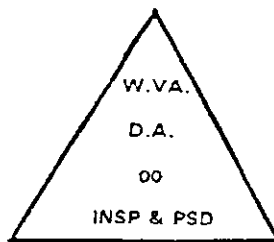
4.4. The slaughter and processing of nontraditional domesticated animals may be conducted at licensed establishments provided that the slaughter and processing operations are separated in time or space from the slaughter and processing of cattle, swine, sheep, and goats. The carcasses of nontraditional,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

§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.

§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.

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

Watt Helms