



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

6/28/2021 4:44:54 PM

Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Agriculture

TITLE-SERIES: 61-07

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: Yes

RULE NAME: Enrichment of Flour and Bread Law Regulations

CITE STATUTORY AUTHORITY: §19-11-A

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/28/2021 12:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Josh Arbaugh

ADDRESS: WV Dept of Agriculture

1900 Kanawha Boulevard, East Charleston WV 25305

EMAIL: jarbaugh@wvda.us

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

n/a

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

n/a

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

n/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

n/a

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

n/a

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

**TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE**

**SERIES 7—
ENRICHMENT OF FLOUR AND BREAD LAW REGULATIONS—**

§61-7-1. General.

1.1. ~~Scope. These legislative regulations establish rules and procedures for enrichment of flour and bread.~~

1.2. ~~Authority. W. Va. Code §19-11A-4.~~

1.3. ~~Filing Date. January 10, 1946.~~

1.4. ~~Effective Date. January 10, 1946.~~

§61-7-2. Definitions.

2.1. ~~"Flour" includes and shall be limited to the foods commonly known in the milling and baking industry as:~~

2.1.1. ~~White flour, also known as wheat flour or plain flour;~~

2.1.2. ~~Bromated flour;~~

2.1.3. ~~Self-rising flour, also known as self rising white flour or self rising wheat flour;~~

2.1.4. ~~Phosphated flour, also known as phosphated white flour or phosphated wheat flour, but excludes whole wheat flour and also excludes special flours not used for bread, rolls, bun or biscuit baking, such as specialty cake, pancake and pastry flours.~~

2.2. ~~"White Bread" means any bread made with flour, as defined in Section 2.1 of these rules, whether baked in a pan or on a hearth or screen which is commonly or usually represented and sold as white bread, including Vienna bread,~~

~~French bread and Italian bread.~~

2.3. ~~"Rolls" include plain white rolls and buns of the semibread dough type, namely, soft rolls, such as hamburger rolls, hot dog rolls, Parker House rolls, and hard rolls, such as Vienna rolls, Kaiser rolls, but shall not include yeast raised sweetrolls or sweet buns made with fillings or coatings, such as cinnamon rolls or buns and butterfly rolls.~~

2.4. ~~"Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust or any group of persons whether incorporated or not, engaged in the commercial manufacture or sale of flour, white bread or rolls.~~

2.5. ~~"Commissioner" means the Commissioner of Agriculture of West Virginia.~~

§61-7-3. Labeling Of Flour.

3.1. ~~All enriched flour shall be labeled as "Enriched Flour."~~

3.2. ~~Labels shall be printed on bags or other containers in a conspicuous place in legible type and of sufficient size to be easily read.~~

3.3. ~~Container labeling. All containers and packages, such as cloth and paper bags, barrels and other containers for flour, as defined in section one of said Act, must be labeled in accordance with the Federal Security Agency's regulations for foods for special dietary uses (Federal Register, November 22, 1941, Page 5925), so as to carry information as to minimum daily requirements of required ingredients for adults.~~

~~3.4. Specimen labeling. — A flour label~~ ~~ENRICHED FLOUR~~

~~8 ozs. of this flour contain not less than the following proportions of the minimum daily requirements:~~

~~Thiamin (Vitamin B1) 100%; riboflavin, 30%; iron 65%; and 8 mgms. of niacin.~~

~~3.5. Labeling claims prohibited. — Enriched flour labels shall not contain claims regarding physiological or therapeutic effects of enriching ingredients. Self-rising flour shall list the kinds and amounts of added chemicals as required by section two of the Act.~~

~~3.6. Temporary exception. — Until the supply of containers on hand as of June 1, 1945, is exhausted, labels may be applied by rubber stamps, sewed-in tags, overprinting or any other practical method, with the distinct understanding that this is for the purpose of liquidating the present supply of containers.~~

~~§61-7-4. Bakers Certificate.~~

~~4.1. Baker or other commercial secondary processors purchasing nonenriched flour shall furnish the seller with a Certificate of Intent, certifying that the unenriched flour will be used only in the production of flour, white bread or rolls enriched in the purchaser's establishment in compliance with the law and these regulations. The certificate shall show, in addition to any other information contained therein, the name and address of the purchaser and the name and address of the seller.~~

~~4.2. The certificate shall be made in triplicate. The seller shall be given one (1) copy, one (1) copy shall be forwarded to the Commissioner for the State of West Virginia and one (1) shall be retained by the purchaser.~~

~~4.3. The certificate shall be one (1) of two (2) forms:~~

~~worded as follows is acceptable and recommended:~~

~~4.3.1. A continuing certificate covering all purchases from each seller for an indefinite period of time, and specifying that the certificate shall remain in force until notice is given in writing of its cancellation.~~

~~4.3.2. A certificate covering a single purchase order, in which case the certificate shall specify the exact quantity of flour covered by the certificate, the trade or brand name and other identifying information needed to identify the flour as that covered by the certificate.~~

~~4.4. The following certificates are suggested for use by bakers: (See Appendix 1 and Appendix 2).~~

~~§61-7-5. Bread Labeling.~~

~~5.1. All white bread, rolls and buns sold or offered for sale, within the State of West Virginia shall be labeled "Enriched Bread," "Enriched Rolls" or "Enriched Buns" as the case may be. These products shall bear a label. The following is suggested and acceptable: (See Appendix 3)~~

~~5.2. By deleting the words "(About Six Slices) of This Bread" from the foregoing (Appendix 3) statement and substituting the words "Of These Rolls" or "Of These Buns," the same label statement is proper for enriched white rolls or buns.~~

~~§61-7-6. Applying Labels.~~

~~6.1. A label must be on each individual loaf of bread, either on the wrapper or on a band around the wrapped bread, or labeled by any other practical means and on each package or container in which rolls or buns are sold.~~

~~§61-7-7. Prohibited Labeling.~~

~~7.1. Enriched bread and roll labels shall not~~

~~contain claims regarding physiological or therapeutic effects of enriching ingredients.~~

~~§61-7-8. Inspections.~~

~~8.1. The Commissioner, or such officers or employees as he may designate is authorized to take samples for analysis and to conduct examinations and investigations, and to enter, at reasonable times, any factory, mill, bakery, warehouse, shop or establishment where flour, white bread or rolls are manufactured, processed, packed, sold or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread or rolls therein, and all pertinent equipment, materials, containers and labeling.~~

~~§61-7-9. Amendment No. 1.~~

~~9.1. Bread labeling. — When wrapped or sold in packages, all white bread, rolls and buns sold or offered for sale, within the State of West Virginia, shall be labeled "Enriched Bread," or "Enriched Buns," as the case may be. Such products shall also bear a label showing the minimum amounts of required enrichment materials. The following label statement is suggested and acceptable: (See Appendix 3).~~

~~9.2. Applying labels. — A label must be on each individual loaf of bread, either on the wrapper or on a band around the wrapped bread, or labeled by any other practical means, and on each package or container in which rolls or buns are sold.~~

~~9.3. A bakery, selling its own products over the counter at retail in its own establishment or in a retail store owned or operated by it, which does not wrap or package its products, but which uses plain bags or wrapping paper, will be considered in compliance with the labeling provisions of the law if in such retail establishments a placard or sign is prominently and conspicuously displayed bearing the following legible wording: "Bakery~~

~~products sold in this establishment have been enriched in compliance with state law."~~

~~9.4. A retail store, not owned or operated by a bakery which sells bakery products not wrapped, packaged or bearing an enrichment label, shall be required to display a sign or placard as herein described.~~

~~§61-7-10. Enforcement.~~

~~10.1. In accordance with the provisions of section four of the Act, the Commissioner is authorized and directed to make, amend or rescind rules, regulations and orders for the efficient enforcement of the Act.~~

APPENDIX 1 — (Sec. 4.4)

~~CONTINUING FLOUR PURCHASE CERTIFICATE~~

TO _____

(Name of Seller)

(Address)

(Date)

~~This is to certify that the flour purchased by me, or us, from you is to be used solely in the production of enriched flour, or enriched bread and rolls, as defined by the West Virginia law requiring the enrichment of flour and bread, or in the manufacture of legitimate products not covered by the provision of said law. This certificate is to remain in force until written notice of its cancellation.~~

(Company — Purchaser)

By _____

(Give Title)

APPENDIX 2 (Sec. 4.4)

SINGLE FLOUR PURCHASE CERTIFICATE

TO _____
(Name of Seller)

(Address)

This is to certify that the flour, in the quantity and as described herein, purchased by me, or us, from you is to be used solely in the production of enriched flour, or enriched bread and rolls, as defined by the West Virginia Law requiring that enrichment of flour and bread, or in the manufacture of legitimate products not covered by the provisions of said law.

Quantity _____

Trade or Brand Name or other
identification _____

(Company -Purchaser)

(Give Title)

APPENDIX 3 (Sec. 5.1)

ENRICHED BREAD

"6 ozs. (about six slices) of this bread will supply not less than the following amounts or percentages of the minimum daily requirements of these essential food substances:

Thiamine (Vitamin B)	41%
Riboflavin (Vitamin B)	13.5%
Iron, 30%; Niacin (a vitamin of the B complex)	3.75 mgms."