WEST VIRGINIA SECRETARY OF STATE
KRIS WARNER
ADMINISTRATIVE LAW DIVISION

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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: Agriculture TITLE-SERIES: 61-11

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

RULE NAME: 61-11 Regulations Governing Public Markets

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: §19-13-3, 19-13-4

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§19-1-4B, 19-2 and 2A allow the WV Department of Agriculture to establish operating procedures for public markets

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/22/2026

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/22/2026

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

n/a

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

Establishes general operating procedures for public markets in the State.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

To establish permitting procedures, to regulate facilities, licensing of weighmen, graders and auctioneers, operations at markets.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE 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 LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 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

Amie J Minor -- 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 11
REGULATIONS GOVERNING PUBLIC MARKETS

61-11-1. General.

1.1. Scope. -- These regulations establish general operating procedures for public markets.

1.2. Authority. -- W. Va. Code ''19-1-4B, 19-2 and 2A.

1.3. Filing Date. -- ~~May 14, 2026~~.

1.4. Effective Date. -- ~~May 14, 2026~~.

1.5. Sunset Date. -- This rule shall expire and have no further force or effect August 1, 2031.

61-11-2. Incorporation by Reference.

2.1. USDA-Aphis LBMS Uniform Program Standards

2.2. USDA-FSIS Standards for Slaughter and Meat Processing.

§61-11-3. Definitions.

3.1. "Bond" means a bond conditioned as the commissioner may require and acceptable to him, payable to the State of West Virginia, for the benefit of the consignors at a public market of livestock, poultry, and other agricultural and horticultural products, who have been wronged or damaged by any fraud or fraudulent practices of the market and so adjudged by a court of competent jurisdiction and who shall have the right of action for damage for compensation against such bond.

The form of the bond shall be approved by the commissioner and may include, at the option of the applicant, surety bonding, collateral bonding (including costs and securities), establishment of an escrow account or a combination of these methods. If collateral bonding is used, the operator may elect to deposit cash, or collateral securities or certificates as follows: Bonds of the United States or its possessions, of the federal land bank, or of the homeowners' loan corporation; full faith and credit general obligation bonds of the State of West Virginia; or other states, and of any county, district or municipality of the State of West Virginia or other states; or certificates of deposit in a bank in this state, which certificates shall be in favor of the department. The cash deposit or market value of such securities or certificates shall be equal to or greater than the sum of the bond. It shall be the duty of the applicant to ensure the market value of such bonds are sufficient. The commissioner shall, upon receipt of any such deposit of cash, securities or certificates, promptly place the same with the treasurer of the State of West Virginia whose duty it shall be to receive and hold the same in the name of the state in trust for the purpose for which the deposit is made when the permit is issued. The applicant making the deposit is made when the permit is issued. The applicant making the deposit shall be entitled from time to time to receive from the state treasurer, upon the written approval of the commissioner, the whole or any portion of any cash, securities or certificates so deposited, upon depositing

with him in lieu therefore, cash or other securities or certificates of the classes herein specified having value equal to or greater than the sum of the bond.

3.2. "Commissioner," as defined in the law, is the Commissioner of Agriculture of the State of West Virginia or his authorized agent.

3.3. "Department" means the West Virginia Department of Agriculture.

3.4. "Feeding and Breeding Purposes" means any livestock received, sold, offered or exposed for sale for purposes other than immediate slaughter.

3.5. "Grade" means the standards used to grade and classify livestock in West Virginia shall be the same as those established by the United States Department of Agriculture or that might be established by the Commissioner.

3.6. "Immediate Slaughter" means livestock purchased by persons, firms or corporations engaged in shipping direct from the market to terminal markets or slaughtering places. Livestock purchased for immediate slaughter shall not be returned to farms.

3.7. "Live Bird Market System" means live bird markets and their production and processing systems.

3.8. "Livestock Technician" means a livestock inspector or other person in the employ of the department and approved by the Commissioner to carry out the provisions of this rule.

3.9. "National Poultry Improvement Plan" or (NPIP) means a cooperative federal-state-industry mechanism for controlling certain poultry diseases as set forth in the National Poultry Improvement Plan and Auxiliary Provisions set forth in Title (44) of the Code of Federal Regulations Parts 145 through 147 and part 56 published March 22, 2011.

3.10. "Person," as defined in the law, includes any individual, partnership, corporation or association.

3.11. "Product" means any livestock, poultry and other agricultural or horticultural products.

3.12. "Public Market" as defined in the law is: (1) Any place of business where livestock, poultry or other agricultural or horticultural products are received and sold at public auction or, (2) any place where livestock is received from producers, assembled and sold or offered for sale, including but not limited to stockyards, buying stations, consignment, or by any public auction. The term public market shall include all such places where such activities are conducted, whether or not such activities are performed according to a scheduled routine or a historically established pattern of days and times: Provided, That sales totally sponsored, organized and financed by the State of West Virginia or by any state, regional or county agricultural fair or festival, or by any 4-H, FFA or other educational activity, shall not be included in this definition. Annual sales held by nonprofit associations or nonprofit corporations devoted to improving the quality of beef cattle or other livestock raised in this state where the net proceeds from such sales are used exclusively for the association or corporation conducting such sale, or purebred livestock sales conducted by generally recognized breed associations, shall not be subject to the provisions of sections §61CSR11-8 and §61CSR11-16a of this article: Provided, however, That only members in good standing in such nonprofit

associations or nonprofit corporations or such breed associations shall offer cattle for sale at such annual sale and the bylaws of such association or corporation or such breed association shall provide either for a bond to be given as provided in this article or that each member offering stock at such sale shall bear any loss in proportion to the value of each member's stock to the total value of such stock being sold at such sale.

3.13. "Veterinarian" means the State Veterinarian, any accredited veterinarian employed by the Commissioner, and/or any individual designated as an agent of the veterinarian.

3.14. "West Virginia Live Bird Market" means any facility that sells live poultry for customer selection and immediate onsite slaughter.

61-11-4. Permits.

4.1. Permit -- All persons desiring to operate a public market shall obtain a permit from the Commissioner.

4.2. Application for permit. -- All persons applying for a permit to operate a public market shall make application to the Commissioner on forms furnished by him/her. The application shall contain the following:

4.2.1. Proposed location of such market;

4.2.2. Type of ownership: Individual, partnership, corporation or association;

4.2.3. Principal owners and their addresses;

4.2.4. How financed;

4.2.5. A fee of twenty dollars ($20.00);

4.2.6. A plat showing the location and the amount of land, including its elevations, in relation to highways or railroads and general accessibility to the public;

4.2.7. Blueprints which show the details of construction of all barns, buildings and other facilities.

4.2.8. Before a permit shall be issued by the Commissioner, the applicant shall furnish a bond payable to the State of West Virginia for the benefit of consignors, who may be wronged or damaged by any fraud or fraudulent practices of the market, in the amount prescribed by the Commissioner, but in no case shall the bond be less than the average bond maintained by all other public markets in the state that have been in operation more than twelve (12) months.

4.3. Permit renewal. -- Persons operating a public market shall renew their permit annually. Applications for renewal of the permit shall be made on forms furnished by the Commissioner. The application shall be presented on or before the first day of July of each year and shall be accompanied by a bond payable to the State of West Virginia in the amount not to exceed one hundred twenty percent (120%) of the average of its sales during the preceding calendar year. A check or money order in the amount of twenty dollars ($20.00) shall accompany the application.

4.3.1. The Commissioner shall require a bond in an amount fixed by him when a public market has not operated for one (1) year previous to the date of application; however, in no case shall the bond be less than the average bond maintained by all other public markets in the state that have been in operation more

than twelve (12) months.

4.4. Transfer of permit. -- No person holding a permit to operate a public market shall sell or otherwise transfer such permit.

4.5. The license of a public market may be suspended or revoked by the Commissioner upon not less than fifteen (15) days notice to the licensee for his failure to grade and classify according to the standards established by the United States Department of Agriculture upon the written request of the licensee, the Commissioner shall hold a hearing on the suspension or revocation in accordance with W. Va. Code '19-2A-14.

61-11-5. Facilities.

5.1. Scales, type and location. -- Persons operating a public market shall install a sufficient number of scales to accommodate the minimum volume of business of the market at any time. All scales shall be equipped with a dial and printer or adjustable indicator, type-registering beams, and be located where easily accessible to the docks.

5.2. Pens for holding and testing cattle. -- All persons operating a public market where cattle will be offered for sale shall provide two (2) holding pens to be used for the purpose of testing and examining cattle. These holding pens shall be constructed so that cattle may be safely worked from one through a catching chute into the other. The catching chute, gates and working area shall be constructed and maintained for maximum safety and efficiency.

5.3. Pens for holding swine for feeding and breeding purposes. -- All persons operating a public market where swine will be offered for sale shall construct or allocate, under roof, a sufficient number of pens to be used exclusively for the purpose of examining and administering medication to swine received and offered for sale for feeding and breeding purposes. These pens shall be constructed with floors of impervious material, shall be well lighted and shall be properly cleaned after each sale.

5.4. Pens for holding sheep for feeding and breeding purposes. -- All persons operating a public market where sheep and lambs will be offered for sale shall construct, under roof, a sufficient number of pens to be used for sheep and lambs offered for sale for feeding and breeding purposes. These pens shall be well lighted and shall be properly cleaned after each sale.

5.5. Pens for holding goats for feeding and breeding purposes. – All persons operating a public market where goats and kids will be offered for sale shall construct, under roof, a sufficient number of pens to be used for goats and kids offered for sale for feeding and breeding purposes. These pens shall be well lit and shall be properly cleaned after each sale.

5.6. Pens for holding horses for feeding and breeding purposes. – All persons operating a public market where horses and foals will be offered for sale shall construct, under roof, a sufficient number of pens to be used for horses and foals offered for sale for feeding and breeding purposes. These pens shall be well lit and shall be properly cleaned after each sale.

5.~~5~~7. Pens (grading). -- All persons operating a public market where livestock and poultry will be offered for sale shall provide pens for grading and classifying livestock and poultry. All pens shall be located under roof and shall be properly cleaned after each sale.

5.~~6~~8. Watering facilities. -- All persons operating a public market where livestock are offered for sale shall have fresh potable water available to all livestock. Any livestock held more than 48 hours must have fresh potable water.

5.~~7~~9. Public facilities. -- All persons operating a public market shall provide: toilet and hand washing facilities for the public and such facilities shall be maintained in a clean and sanitary condition in accordance with the requirements of the State Health Department.

5.~~8~~10. Opening hour of sale. -- A public market shall keep the public informed as to the starting time of all sales and shall begin all sales no later than 30 minutes past the approved sale time.

5.~~9~~11. Weighed on day of sale. -- All products sold by weight at any public market shall be weighed at the market on the day of the sale.

5.~~10~~12. Scales, maintenance. -- A public market shall maintain its scales so as to ensure accurate weights, and shall have the scale tested at least once every twelve (12) months or more often if required by the Commissioner of Labor.

61-11-6. Weighmen, Graders and Auctioneers.

6.1. Weighman, grader, auctioneer, employment of. -- A public market shall utilize a licensed weighman, a licensed grader and a licensed auctioneer at every sale where weighed and graded products are sold at auction.

6.2. Grades, classifications, standards. -- A public market representing or advertising that agricultural or horticultural products are being sold on grades, classifications or standards adaptable to such products, shall utilize a licensed grader to sort, grade and classify such products. Such grades or standards shall conform to the grades, classifications or standards established by the United States Department of Agriculture or that might be established by the Commissioner.

6.3. Licenses: Weighman, grader, auctioneer. -- Application for weighman or grader's license shall be filed with the Commissioner on forms provided by him/her and shall be accompanied by check or money order in the amount of five dollars ($5.00). Application for auctioneer's license shall be filed with the Commissioner as provided in W. Va. Code §19-2C and the regulations promulgated thereunder.

6.4. License Renewal: Auctioneer, Weighman, Grader - Any weighman or grader desiring to renew his license shall make application for such renewal on application forms provided by the Commissioner, on or before the first day of July of each year. Such application shall be accompanied by a check or money order made payable to the West Virginia Department of Agriculture in the sum of five dollars ($5.00). Any auctioneer desiring to renew his license shall make application to the Commissioner for such renewal as provided in Chapter 19, Article 2C and the regulations promulgated thereunder.

6.5. Grader, application and duties. -- The applicant is required to qualify in accordance with the standard rules for grading livestock and other agricultural or horticultural products established by the United States Department of Agriculture and any special requirements established by the Commissioner.

6.5.1. The grader shall grade or classify all products in conformity with grades, classifications and standards established by the United States Department of Agriculture or that might be established by the Commissioner.

6.5.2. A grader is authorized to settle disputes on grades and classifications and his/her decision shall be final unless appealed to the Commissioner.

6.5.3. At the end of each sale, a report shall be prepared showing the kinds of products graded or classified, the number in each grade or classification, and any other information required by the Commissioner. Such reports shall be in triplicate, the original to be forwarded to the Commissioner not later than the day following the sale, one (1) copy to be given to the public market and one (1) copy to be retained by the grader.

6.5.4. A public market shall employ sufficient help to assist the grader in grading and classifying the products. Such employees shall be available to the grader at all times while grading is being conducted.

6.6. Weighman, application and duties. -- An applicant for weighman license shall be a person trained and proficient in weighing the products being offered for sale.

6.6.1. The weighman shall have complete and unmolested charge of the scale at all times he/she is engaged in weighing;

6.6.2. Shall record the true and accurate weight of all products weighed;

6.6.3. Shall record the weight by typed impression after all other information has been entered and recorded on the ticket;

6.6.4. Shall show on the scale ticket the amount of dockage, if any, on livestock and live poultry in addition to the information required to be on the scale ticket;

6.6.5. Shall make a certified copy of scale ticket when requested by the owner or consignor of the product;

6.6.6. In the case of an error in preparing the scale ticket, the weighman shall make a corrected scale ticket after reweighing of the product. The correction ticket shall be attached to the original ticket and shall show on its face that it is a corrected ticket. A weighman is authorized to settle disputes on weights and scale records, or other matters pertaining to weights, and his/her decision shall be final unless appealed to the Commissioner.

6.7. Auctioneer, application and duties. -- Auctioneers shall be licensed as required under W. Va. Code §19-2C.

6.7.1. In case of a dispute between bidders, the auctioneer is authorized to settle such dispute by reopening the bid and reselling to the highest bidder.

6.7.2. An auctioneer, when offering livestock for sale at any public market for immediate slaughter, shall publicly announce that such livestock may be purchased for immediate slaughter only.

6.7.3. An auctioneer, when selling livestock received, entered and/or offered for sale by any public market for feeding and breeding purposes, shall publicly announce that such livestock may be purchased for feeding or breeding purposes.

6.7.4. An auctioneer, when selling livestock by weight, shall announce the weight of such livestock before same is sold. When any livestock is sold he/she shall announce the name of the person or firm buying said livestock. When livestock is sold to a person representing himself/herself as agent or order buyer for another person, the auctioneer shall announce the name of the agent or order buyer, and, if possible, the name of the person for whom such livestock was purchased. The auctioneer shall also announce the price at which said livestock was sold. Such announcements shall be in an audible voice that can be heard throughout the sale arena by persons of average hearing.

61-11-7. Operations.

7.1. Clerk shall record price and purchaser - A public market clerk shall record the name of the buyer and the price at which the products are sold as announced by the auctioneer.

7.2. Animals, identification of. -- It shall be the responsibility of each public market to individually identify by numbered tag each animal consigned to said market. Such tag number shall be recorded on the scale ticket in the space provided.

7.2.1. The consignor shall bear the responsibility for delivering correctly paired cows and calves to the market.

7.3. Agents, order buyers, purchases by. -- When purchases are made at a public market by a person representing himself as agent or order buyer for another person, such public market shall record on the manifest, invoice and other records the name of the agent or order buyer, and for what person such was purchased.

7.3.1. West Virginia Live Bird Markets shall source poultry from West Virginia participants registered in the National Poultry Improvement Plan (NPIP), or NPIP participants from other states if imported birds are sold. Birds sourced from other states must meet West Virginia import requirements, including testing requirements. All birds not selected and custom-slaughtered for customers will be processed weekly under state and federal meat inspection to be provided for storefront sales in registered West Virginia establishments. All held birds shall be maintained in caging and provided care to standards set forth for slaughter facilities by USDA-FSIS for meat processing facilities. Received live birds shall only be moved offsite under special permit and not out-of-state.

7.4. Scale tickets. -- A public market shall use scale tickets made in quadruplicate, or triplicate where manifest sheets are used, numbered serially, and shall contain the following information: (refer to Appendix A)

7.4.1. A public market shall record in spaces provided on the scale ticket all required information. The weighman shall record the true and actual weight of livestock, poultry and other agricultural or horticultural products entered and recorded for sale by the pound. A public market shall deliver one (1) copy of the scale ticket to the consignor, one (1) copy to the purchaser, if requested, one (1) copy to the Commissioner of Agriculture or his agent, and retain one (1) copy for permanent record.

7.4.2. In case of a dispute over any weights, a public market official shall, upon request of either the consignor or buyer, reweigh any livestock, poultry, agricultural or horticultural product in question. Disputes arising from such reweighing may be appealed to the Agriculture Commissioner or his/her duly authorized agent.

7.4.3. Organizations exempted under the definition of a public market when selling agricultural or horticultural products by weight shall deliver to each consignor, at time of consignment, a scale ticket indicating the correct weight of the product(s) consigned.

7.5. Records and account. -- A public market shall keep a complete and accurate record of all transactions. The Commissioner or his duly authorized agents shall have the right to enter the premises of any public market, at all reasonable hours, to examine the books and records of such market and to make any other inspection deemed necessary.

7.6. Reports, statistical. -- A public market, when requested, shall make and furnish reports or other statistical information to the Commissioner on forms furnished by the Commissioner. The Department will assemble an annual report of the public markets identified in this section of code summarizing the data required via this section of code.

7.7. Inspection and test certificates. -- A public market shall complete test or inspection certificates issued by the veterinarian covering livestock tested or inspected by writing in the name and address of the purchaser in the blank spaces provided for same.

7.8. Records, disposition of. -- A public market shall keep any and all books, records, documents or other papers which contain or explain transactions of its business for a period of at least five (5) years.

7.9. Proceeds of sale, prompt accounting. -- All moneys received from the sale of agricultural or horticultural products by a public market are hereby declared to be the property of the consignor. A public market shall be responsible to a consignor for the full market value of all agricultural or horticultural products received or entered for sale. A public market shall within seventy-two (72) hours following the conclusion of the daily activities of such market, transmit or deliver by check to the consignors or the consignor's duly authorized agent, or by mail, the net proceeds received from the sale of the consignor's products, and a true written account of such sale showing the number, weight and price of each kind of livestock, poultry, agricultural or horticultural product sold, the name of the purchaser, the purchaser's agent or order buyer, if any, the date of the sale, the commission, yardage and any other lawful charges, and any other facts as may be necessary to complete the account.

7.10. Market zone establishment. -- The Commissioner shall establish and define an area surrounding each public market as the market zone for such public market and shall enter the boundaries of such market zone upon the records of the Department and cause such boundaries to be posted. All agricultural and horticultural products entering a market zone shall be handled and sold through the market and shall be subject to all the rules and regulations governing a public market.

7.11. Veterinarian, Authority of. -- Accredited veterinarians or Agent of the Commissioner shall have the right to enter any public market or premises, public or private, within such market or market zone, where they have reason to believe that diseased animals or poultry may have been confined or kept in or on such premises, make examinations or apply such tests as may be necessary to determine whether or not any contagious or infectious disease exists.

7.12. Livestock, inspected or tested, disposition of. -- A public market shall not permit the removal of any livestock or poultry inspected or subject to inspection, or tested or subject to test for any communicable or infectious disease affecting livestock or poultry, unless and until released by the veterinarian or Agent of the Commissioner.

7.13. Veterinary biological, furnished by, disposition of. -- A public market shall furnish all necessary veterinary biologicals for testing livestock. Such veterinary biological products shall be approved by the Commissioner, shall be administered by an accredited veterinarian or an agent under his supervision, and shall be used exclusively for testing livestock received, sold or offered for sale through the public market.

7.14. Veterinary assistant, employed by. -- A public market shall ~~employ~~ utilize sufficient help to assist the veterinarian or his agent in testing livestock at the market. Such ~~employees~~ help shall be available to the veterinarian or his agent at all times on the day of the sale.

7.15. Diseased animals, disposition of. -- Livestock received by a public market which show symptoms of contagious, infectious or communicable disease, may be held in quarantine, on the premises of such public market, at the expense of the owner.

7.15.1. A designated area shall be clearly labeled and readily identifiable for isolation or quarantine of any animal suspect of having a disease. When the area is not being used for isolation or quarantine purposes, it may be utilized as a regular holding pen.

7.16. Swine, responsibility for penning, identification and inspection. -- A public market shall place all swine to be offered for sale for feeding or breeding purposes in swine pens, for identification and inspection by methods approved by the Commissioner. All pens allotted for swine received, offered, sold or exposed for sale for feeding and/or breeding purposes shall be thoroughly cleaned and disinfected after each sale by the public market.

7.17. Reports false and misleading. -- A public market shall not issue or circulate any false or misleading reports, records or representations concerning market conditions or the price of any products.

7.18. Market responsibility to purchaser. -- A public market shall be responsible to the purchaser of any product until the responsibility for such is signed for by the purchaser or his authorized agent.

7.19. Settlements, based on weights. -- When livestock or live poultry is bought and/or sold by weight, settlement therefor shall be on the basis of the weight shown on the original scale ticket or corrected scale ticket.

Shrinkage deductions in weight of livestock must be shown in writing on all copies of the scale ticket and the consignor's sale invoice.

7.20. Products to be sold on own merits to highest bidder. -- A public market shall offer all products consigned for sale at auction and shall sell such products to the highest bidder.

7.21. Livestock intermingling. -- A public market shall not pen livestock entered or received to be sold for immediate slaughter, with cattle entered or received to be sold for feeding and/or breeding purposes.

7.22. Livestock, condition of. -- Public market officials shall cause the condition of any obviously sick, injured or otherwise unhealthy animals to be noted on the scale ticket and such condition must be announced by the auctioneer prior to the sale of such animal.

7.23. Price guarantees prohibited. -- No public market, other than buying stations, in soliciting consignment of products, shall guarantee to the owner or others thereof that such products will be sold at a specific price or prices if consigned to its market.

7.24. Market manager's with the exception of buying station owners, are prohibited from buying, selling or trading in livestock in the market. -- A public market shall not permit its manager to engage in buying, selling or otherwise trading in livestock for himself, his agent or partner at said markets.

7.24.1. Licensed weighmen, graders and auctioneers employed as such at a public market shall not buy or trade in agricultural or horticultural products at the public markets at which they are employed as weighmen, graders or auctioneers.

7.24.2. When it appears to the manager of a public market that the product being offered for sale is selling below a reasonable market price, the manager may buy said product in the name of the public market at which he is employed. He shall have the right to sell such product purchased by the market to anyone other than himself, and if there be a loss on the sale of such product, the public market shall absorb such loss. On such purchases and sales, the public market shall set up a special account on which all such transactions are to be recorded, and shall make an itemized report to the commissioner on forms furnished by him, when requested.

7.25. Schedule of rate and charges for Public Markets. Each public market shall file with the Commissioner, a signed copy of all schedules of rates and charges, supplements and amendments thereto. The schedules, supplements and amendments must be conspicuously posted for public inspection at the public markets and filed with the Commissioner at least ten (10) days before their effective dates. Each schedule, supplement and amendment shall set forth its effective date, a description of the services rendered, the public market at which it applies, the name and address of the public market owner, the kind of products covered by the schedule and any rules and regulations which effect any rate or charge contained therein.

7.25.1. The rate schedule may be based on either a base rate or a percentage rate. The rates for special sales for unusual services, such as are included in purebred or dispersal sales, shall be determined under special arrangements agreed to between the parties prior to such sales. Such tariff rate schedules shall be forwarded to the U.S. Department of Agriculture, Packers and Stockyards Administration for their consideration at least ten (10) days prior to their effective date with a copy of such correspondence provided to the Commissioner.

7.26. Sales, regular and special. -- All public markets shall continue to operate on the same day of the week on which they are holding regular sales as of the effective date of these regulations. A public market desiring to make a change in its regular sale day shall file an application at least sixty (60) days prior to the date of such contemplated change with the Commissioner. A public market shall not advertise and hold special livestock sales on days other than their regular sale day, until such public market has been given permission by the Commissioner to hold such sale. When a public market desires to hold a special sale, it shall make application in writing at least thirty (30) days prior to the date it contemplates holding such sale, to the Commissioner, and shall include all information pertaining to the character of the sale.

7.26.1. A public market that discontinues a regular sale day or the operation of the market for a period of time during the year shall notify the Commissioner, in writing, at least fourteen (14) days in advance of such discontinuance, and shall again notify the Commissioner at least fourteen (14) days in advance, in writing, of the scheduled reopening of the market.

7.26.2. Livestock and poultry sold at special sales by public markets are subject to the same health requirements as regular scheduled sales.

7.26.3. Sales totally sponsored, organized and financed by the State of West Virginia or by any state, regional or county agricultural fair or festival, or by any 4-H, FFA or other educational activity shall file their reasons, in writing, for exemption from the definition of a public market with the Commissioner at least thirty (30) days prior to the event This shall be sent to the West Virginia Department of Agriculture, Executive Division, 1900 Kanawha Boulevard, East, Charleston, WV 25305.

7.26.4. Nonprofit associations, nonprofit corporations and breed associations planning livestock sales within the state shall file in writing with the Commissioner annually the place and date of all such sales if an annual event, or at least thirty (30) days prior to the event if it is held irregularly or is being held for the first time. This shall be sent to the West Virginia Department of Agriculture, Executive Division, 1900 Kanawha Boulevard, East, Charleston, WV 25305.

7.26.5. Nonprofit associations, nonprofit corporations and breed associations planning sales in West Virginia shall file with the Commissioner at least thirty (30) days prior to the sale a bond in the amount no less than the average of all other public markets that have been in operation more than twelve (12) months or shall file a certified copy of the bylaws of the corporation or association with the Commissioner advising him that the members offering stock at the sale shall bear any loss in proportion to the total value of such stock being sold at such sale. This shall be sent to the West Virginia Department of Agriculture, Executive Division, 1900 Kanawha Boulevard, East, Charleston, WV 25305.

7.26.6. At the conclusion of each nonprofit association, nonprofit corporation or breed association sale, each organization conducting such sale shall certify to the Commissioner in writing that only active members in good standing sold livestock at such sale. Such reports must state that all proceeds due consignors have been paid in full. Any deficiencies in payment from purchases must be reported immediately to the Commissioner and shall include the name, address and phone number of such purchaser and the amount of the deficiency. This shall be sent to the West Virginia Department of Agriculture, Executive Division, 1900 Kanawha Boulevard, East, Charleston, WV 25305.

7.27. Clerk shall record price and purchaser. -- A public market clerk shall record the name of the buyer and the price at which agricultural or horticultural products are sold as announced by the auctioneer.

7.28. Pursuant to §61-11B, a farmer may hold one auction in a 12 month period on their own farm for their own livestock without holding an auctioneer license.

Title 61-11

APPENDIX A

SCALE TICKET

(Printed) (Printed)

(No. Serially) (Name of Market)Public Market _____19__

Received from _____ Address_____

_____

HOGS CATTLE CALVES LAMBS SHEEP HORSES POULTRY

Tag and/or Mark_____ Pen. No_____

Buyer_____ Price_____

Remarks_____ Amount_____

Weighman_____