WEST VIRGINIA SECRETARY OF STATE
KRIS WARNER
ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Agriculture

RULE TYPE: Legislative TITLE-SERIES: 61-16

RULE NAME: Inspection of Meat and Poultry

CITE AUTHORITY: §19-2B-3

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

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 16
INSPECTION OF MEAT AND POULTRY

§61-16-1. General.

1.1. Scope. -- This rule is established in order to implement the requirements of W. Va. Code §19-2B-1 *et seq*., "Inspection of Meat and Poultry", and to maintain and administer an effective State-Federal Cooperative Meat and Poultry Inspection Program in the State of West Virginia by establishing requirements which equal those imposed by the applicable provisions of the Federal Meat Inspection Act (34 Stat. 1260, 21 U.S.C. § 601 *et seq.*), as amended by the Wholesome Meat Act (81 Stat. 584~~, 84 Stat. 438, 92 Stat. 1069, U.S.C., Sec. 601 et seq.~~) and the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, § 11015(a), 122 Stat. 1651, 2124-27 (codified at 21 U.S.C. § 683), ~~and~~ as well as the Poultry Products Inspection Act (71 Stat. 441, 21 U.S.C. § 451 *et seq.*), as amended by the Wholesome Poultry Products Act (82 Stat. 791~~; U.S.C. 451 et seq.~~) and the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, § 11015(b), 122 Stat. 1651, 2127-30 (codified at 21 U.S.C. § 472). This rule establishes general operating procedures, requirements, and standards in the West Virginia Department of Agriculture, Meat and Poultry Inspection Division.

1.2. Authority. -- W. Va. Code §19-2B-3.

1.3. Filing Date. -- ~~May 6, 2025~~

1.4. Effective Date. -- ~~May 6, 2025~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect on ~~August 1, 2031~~ August 1, 2032.

§61-16-2. Incorporation by Reference of Federal Meat and Poultry Inspection Regulations.

2.1. The Mandatory Meat Inspection Regulations (9 C.F.R.~~, Parts 301 *et seq*.~~ pts. 301-335), the Mandatory Poultry Products Inspection Regulations (9 C.F.R.~~, Part~~ pt. 381), and Regulatory Requirements Under the Federal Meat Inspection Act and the Poultry Products Inspection Act (9 C.F.R.~~, Parts~~ pts. 412, 416, 417, 418, 424, 430, 441, 442, and ~~442~~ 500) of the United States Department of Agriculture, promulgated in the Federal Register prior to January 1, ~~2024~~ 2026 are hereby adopted in their entirety with the exception of the deleted regulations specified in section 3 of this rule.

§61-16-3. Deleted Regulations.

3.1. The following sections of the ~~Federal regulations governing the mandatory meat inspection~~ Mandatory Meat Inspection Regulations (9 C.F.R.~~, Part 301 *et seq*.~~ pts. 301-335) and the ~~mandatory poultry products inspection~~ Mandatory Poultry Products Inspection Regulations (9 CFR~~, Part~~ pt. 381) of the United States Department of Agriculture incorporated by reference under section 2 of this rule are deleted and are not incorporated as rules of the West Virginia Department of Agriculture: 9 C.F.R. §§ 302.2; 303.1~~-~~(c); 304; 305.2~~-~~(b); 307.5; 307.6; 312; 316.12; 316.13~~-~~(c); 317.7; 317.9; 318.8; 321.2; 322; 327; 329.6; 329.7; 329.8; 329.9; 331; 335; 381.16; 381.17; 381.30; 381.31; 381.38; 381.39; 381.96~~,~~;

381.98~~,~~; 381.104 through 381.112; 381.123~~–~~(b)(1) and (4); 381.179; 381.185; 381.186; and 381.195 through 381.236.

3.2. In 9 C.F.R. § 381.10(a)~~-~~(3) and (4), the words "and the statement 'Exempt - P. L. 90-492'" are deleted and are not incorporated as part of the rules of the West Virginia Department of Agriculture.

3.3. In 9 C.F.R. § 381.123(b)~~-~~(2), the words "and accompanied by the prefix 'P'" are deleted and are not incorporated as part of the rules of the West Virginia Department of Agriculture.

§61-16-4. Definitions.

4.1. All terms defined in W. Va. Code §19-2B-2~~,~~ are hereby incorporated in this rule.

4.2. Definitions in the incorporated parts of the ~~Federal regulations on mandatory meat inspection~~ Mandatory Meat Inspection Regulations (9 C.F.R.~~, Part 301 *et seq*.~~ pts. 301-335) and ~~mandatory poultry products inspection~~ the Mandatory Poultry Products Inspection Regulations (9 C.F.R.~~, Part~~ pt. 381) of the United States Department of Agriculture ~~are amended to read as follows~~ shall mean as follows for the purposes of this rule:

4.2.~~a~~1. "The Act" means W. Va. Code §19-2B-1 *et seq*.

4.2.~~b~~2. "The United States Department of Agriculture" and "Department" means the West Virginia Department of Agriculture. For brevity, the acronym WVDA for the West Virginia Department of Agriculture is used in this rule.

4.2.~~c~~3. "Secretary" means the Commissioner of Agriculture.

4.2.~~d~~4. "Administrator", "Regional Director", and "Area Supervisor" mean the Director, Meat and Poultry Inspection Division, WVDA.

4.2.~~e~~5. "Federal Meat Inspection", "Program", "Federal Inspection", "Federal Poultry Inspection", "Meat and Poultry Inspection Program", "Inspection Service", "Standards and Labeling Division", "Meat and Poultry Inspection", "Technical Services", and "Agency" mean the Meat and Poultry Inspection Division, WVDA.

4.2.~~f~~6. "Federal" means State.

4.2.~~g~~7. "Food Inspector", "Inspection Service Employee", "USDA Inspector", "USDA Program Official", and "Program Inspector" mean Inspector, Meat and Poultry Inspection Division, WVDA.

4.2.~~h~~8. "Inspection Service Supervisor" means Circuit Supervisor, Meat and Poultry Inspection Division, WVDA.

4.2.~~i~~9. "Veterinary Inspector" means Veterinary Supervisor, Meat and Poultry Inspection Division, WVDA.

4.2.~~j~~10. "Food Safety and Inspection Service" means the Meat and Poultry Inspection Division, WVDA.

4.2.~~k~~11. "USDA Inspection Legend" and "Official Inspection Legend" mean WVDA Inspection Legend except when in reference to inspections conducted within facilities subject to the Cooperative Interstate Shipment program, in which case "official inspection legend" means the inspection legend provided by the United States Department of Agriculture pursuant to 9 C.F.R. § 321.3 ~~there is no change in meaning~~.

4.2.~~l~~12. "Federally Inspected and Passed", "U.S. Inspected and Passed", "U.S. Inspected for Wholesomeness", and "Federally Inspected for Wholesomeness" mean WVDA Inspected and Passed except when in reference to inspections conducted within facilities subject to the Cooperative Interstate Shipment program, in which case "Federally Inspected and Passed", "U.S. Inspected and Passed", "U.S. Inspected for Wholesomeness", and "Federally Inspected for Wholesomeness" have the meaning provided by the United Stated Department of Agriculture pursuant to 9 C.F.R. § 321.3 ~~there is no change in meaning~~.

4.2.~~m~~13. "U.S. Passed for Cooking" means WVDA Passed for Cooking.

4.2.~~n~~14. "U.S. Passed for Refrigeration" means WVDA Passed for Refrigeration.

4.2.~~o~~15. "U.S. Inspected and Condemned" means WVDA Inspected and Condemned.

4.2.~~p~~16. "U.S. Retained" or "U.S. Detained" means WVDA Retained.

4.2.~~q~~17. "U.S. Rejected" means WVDA Rejected.

4.2.~~r~~18. "U.S. Suspect" means WVDA Suspect.

4.2.~~s~~19. "U.S. Condemned" means WVDA Condemned.

4.2.~~t~~20. "U.S. Government Seals" means WVDA Seals.

4.3. Whenever an official form, certificate, or seal is designated by ~~Federal~~ federal regulations, the appropriate WVDA form, certificate, or seal shall be substituted.

§61-16-5. The United States Department of Agriculture's Guidelines and Procedures Applicable to the West Virginia Department of Agriculture.

5.1. The following publications prepared and approved by the United States Department of Agriculture are applicable to the West Virginia Department of Agriculture, as determined by the Commissioner of Agriculture:

5.1.1. "USDA/NCDA&CS Facility Guidelines for Meat Processing Plants," Federal Register, ~~75~~ 62 Fed. Reg. 45027 (August 25, 1997);

5.1.2. "Standards and Labeling Policy Book" issued by the USDA Food Safety Inspection Service dated August 2005, as updated; and

5.1.3. Food Safety and Inspection Service's Directives, Notices, and Bulletins.

§61-16-6. Licensing.

6.1. Every commercial slaughterer, custom slaughterer, commercial processor, custom processor, or distributor shall obtain a license from the Commissioner.

6.1.~~a~~1. An applicant for a license shall make application on an official form furnished by the Commissioner and shall complete the application to include all information requested. Only the applicant named in the application may conduct operations at the establishment for which the license is granted.

6.1.~~b~~2. The licensee shall apply for a new license when ownership or the location of the business changes.

6.2. Each applicant for the license shall submit to the Director, Meat and Poultry Inspection Division~~;~~, WVDA~~;~~:

6.2.~~a~~1. Three (3) sets of complete drawings containing a plot plan showing the 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; 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; and a room schedule showing the finish of walls, floors, and ceilings of all rooms in the establishments;

6.2.~~b~~2. Three (3) sets of specifications which shall include statements, describing water supply, plumbing, drainage, refrigeration, equipment, lighting, and operations to be performed at the establishment; and

6.2.~~c~~3. A current certificate from the local or state health authority certifying the water potability at the establishment and approval of the sewage disposal system of the establishment.

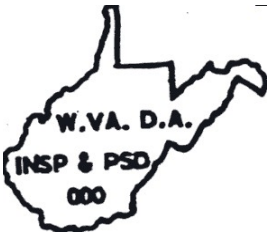
§61-16-7. Official Inspection Marks and Devices.

7.1. The inspection marks and devices~~,~~ prescribed or referenced in this section are official marks and devices~~,~~ for purposes of ~~the~~ W. Va. Code §19-2B-6 and shall be used in accordance with the provisions of this section and the United States Department of Agriculture regulations governing meat and poultry inspection as incorporated in this rule.

7.2. The inspection marks shall be affixed by the establishment under the oversight of the inspectors of the Meat and Poultry Inspection Division, WVDA.

7.3. Inspection legends on animal carcasses and parts of carcasses.

7.3.~~a~~1. The inspection legend to identify WV inspected and passed animal carcasses, primal cuts, beef livers, beef tongues, beef hearts, and smoked meats not in casings and for application to materials that enclose carcasses or parts of carcasses, is as shown in this subdivision. The establishment number shall be placed in the inspection legend by the establishment where the three zeros appear. The size of the inspection legend shall be 1-7/8"x2".



7.3.~~b~~2. The inspection legend may be proportionally reduced in size, provided it shall not be smaller than 7/8"x1", for application to the loins and ribs of pork, beef tails, and sausages in animal casings.

7.3.~~c~~3. The inspection legend for carcasses, parts, or products produced under the Cooperative Interstate Shipment program shall be as specified in Title 9, Part 332 of the Code of Federal Regulations.

7.4. Inspection legends on labels.

7.4.~~a~~1. Excluding the inspection legend described in subdivision 7.3.c, ~~T~~the inspection legend required to be shown on all labels for inspected and passed products of cattle, sheep, swine, goats, and poultry shall be in the form as shown in subdivision 7.3.a of this rule, 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. The establishment number shall be placed in the inspection legend where the three zeros appear, and it may be preceded by the abbreviation "EST."

7.4.~~b~~2. The inspection legend shall be applied on labels by mechanical means and shall not be applied by a hand stamp.

7.4.~~c~~3. The inspection legend described in subdivision 7.3.a or 7.3.c of this section may also be used on shipping containers, band labels, artificial casings, and other articles with the approval of the Director, Meat and Poultry Inspection Division, WVDA.

7.5. Any brand, stamp, label, or other device approved by the Director, Meat and Poultry Inspection Division, WVDA, and bearing any inspection legend presented in this section is an official device for purposes of ~~the~~ W. Va. Code §19-2B-6.

7.6. Custom stamps and devices to identify custom slaughtered animals or custom prepared product.

7.6.~~a~~1. An establishment licensed for custom slaughter, custom processing operations, or both shall identify all custom carcasses~~,~~ and carcass parts with:

7.6.~~a.1~~1.a. A custom stamp as provided for in subdivision 7.6.b of this rule and a stamp with the words “NOT FOR SALE” in uppercase letters at least 3/8" in height applied to the animal carcass immediately after slaughter;

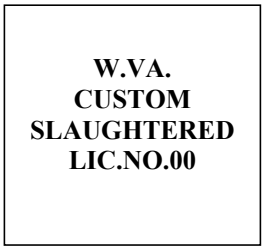
7.6.~~a.2~~1.b. A stamp with the words “NOT FOR SALE” in uppercase letters at least 3/8" in height applied immediately upon receipt of a carcass or carcass parts which were slaughtered at a location other than the receiving licensed establishment;

7.6.~~a.3~~1.c. A tag made from a material that is nontoxic and waterproof, that identifies the name of the owner or a number which identifies the owner of the meat, which must be placed on the carcass immediately after slaughter or on the carcass or carcass parts upon receipt. The tag may be omitted if the identification number is legibly applied directly on the meat or poultry by an approved marking pencil;

7.6.~~a.4~~1.d. A stamp or legible printing or pressure sensitive tape with the words “NOT FOR SALE” in uppercase letters at least 3/8" in height on all custom wrapped or packaged meats or poultry immediately after final preparation. All custom meat or poultry must remain so identified while on the establishment's premises; and

7.6.~~a.5.~~1.e. A stamp, legible printing or pressure sensitive tape or tag attached with the words “NOT FOR SALE” in uppercase letters at least 3/8" in height on closed containers when utilized for packing unwrapped, wrapped, or packaged custom meats or poultry. All custom meat or poultry must remain so identified immediately after packing the containers and while on the establishment's premises.

7.6.~~b~~2. The official custom stamp (brass faced) required to identify animal carcasses or parts of carcasses resulting from custom establishment slaughter is as shown in this subdivision. The size of the stamp shall be 2"X2" with uppercase letters 3/8" in height.



§61-16-8. Overtime and Holiday Inspection Service.

8.1. The management of a licensed establishment shall reimburse WVDA for the cost of inspection service furnished on any holiday as specified in subsection 8.3 of this ~~Section~~ section, or for providing inspection services for more than eight (8) hours on any day or more than forty (40) hours in any administrative workweek, Saturday through Friday.

8.2. When a licensed establishment requires an inspection service on a holiday or for more than eight (8) hours on any other day, it shall request the circuit supervisor to furnish inspection during that 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 are those specified in W. Va. Code §2-2-1, as well as any other holidays declared by the Governor by executive order.

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

§61-16-9. Poultry Exemptions.

9.1. A poultry producer who otherwise meets the requirements of the exemption for poultry producers that slaughter or process 20,000 or fewer birds per calendar year under the federal Poultry Products Inspection Act, 21 U.–S.–C. § 464-(c)-(3), may not keep a poultry flock of more than 3,000 birds at any one time.