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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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August 08, 2001

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Dr. Lewis Thomas
Agriculture, WV Department of
Capitol Complex
Building 1, Room E28

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Animal Disease Control, 61CSR1**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed _____
 - (b) as modified by the agency ✓
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
- 5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached. _____

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Department of Agriculture

Subject: Animal Disease Control, 61CSR1

PERTINENT DATES

Filed for public comment: May 2, 2001

Public comment period ended: May 31, 2001

Filed following public comment period: July 25, 2001

Filed LRMRC: July 25, 2001

Filed as emergency: May 2, 2001

Fiscal Impact: Cost decrease \$15,000

ABSTRACT

The proposed rule amends a current legislative rule. Unless certain specified conditions are met, the current rule prohibits any person from: importing a bovine into the state for breeding or milking purposes from any state that is designated a "Free" or "Class A" state; importing a goat for breeding or milking purposes unless the animal has a valid official health certificate showing that the animal had a negative tuberculosis or brucellosis test; showing a bovine or bison or exhibiting an animal at a fair, festival or show; exhibiting any swine without an official health certificate; and selling, lending, leasing or trading any feeder or breeder swine. The proposed rule makes the prohibition in these cases discretionary with the Commissioner.

The current rule requires the Commissioner to test all bovine animals who are over 18 months of age and sexually intact for the presence of brucellosis. Under the proposed rule, testing would be discretionary with the Commissioner.

The current rule specifies certain conditions which must be met before a person may sell, lend, lease or trade any breeder

swine in this state or import or export any feeder pig. The proposed rule adds a new requirement that the swine or pig originate from Stage V-(free) state.

AUTHORITY

Statutory authority: W.Va. Code, §19-1-4, which provides, in part, as follows:

... (k) Propose rules, including regulatory standards, for legislative approval in accordance with the provisions of article three, chapter twenty-nine of this code for the purpose of carrying out the requirements of this chapter.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.