

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #7

Effective Date

March 24, 1993 *je*

NOTICE OF AN EMERGENCY RULE

AGENCY: Agriculture TITLE NUMBER: 61

CITE AUTHORITY: 19-9-2

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED Animal Disease Control

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

This rule is filed as an emergency to protect the public health, safety and welfare from the spread of pseudorabies from swine to cattle, sheep, wildlife, dogs and cats. The amendment will require that all swine have a health certificate showing they are free from pseudorabies, or that they come from a qualified herd before they may be exhibited.

Use Additional Sheets If Necessary.

Gus R. Daylan
Signature

WEST VIRGINIA DEPARTMENT OF AGRICULTURE



FORGING A NEW ERA IN WEST VIRGINIA AGRICULTURE

Guo R. Douglass, Commissioner
Robert G. "Bob" Morris, Assistant Commissioner

March 22, 1993

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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FILED

Ms. Judy Cooper
Office of the Secretary of State
Capitol Building
Charleston, West Virginia 25305

Dear Ms. Cooper:

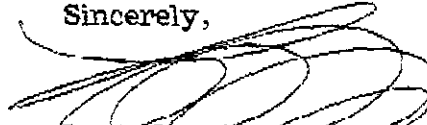
I am writing in justification of the Emergency Rule filed by the West Virginia Department of Agriculture, Title Number 61 and Authority 19-9-2. This rule makes it mandatory that swine exhibited at fairs and festivals be from Pseudorabies Qualified Negative herds or be tested negative to pseudorabies within sixty days of the date of the exhibition. The reason for this is because of the following:

1. The introduction of pseudorabies into West Virginia from infected swine from other states could spread to many West Virginia swine herds and also to states that had swine producers exhibiting swine at West Virginia fairs.
2. Should West Virginia become infected with pseudorabies, West Virginia would be subjected to loss of pseudorabies status resulting in added testing and economic hardship on the swine producer.
3. Pseudorabies introduction into West Virginia could result in a delay of Free Status which shall be an economic advantage to West Virginia swine producer.
4. Infected swine may shed the virus in breathing, resulting in death of nearly 100% of lambs shown at exhibition.
5. Infected hogs are a threat to cattle, when infected may act wildly resulting in injury to the animal, other animals and man.
6. Pseudorabies is a threat to dogs, cats and wildlife.
7. Introduction of pseudorabies into West Virginia would result in quarantines, testing and retesting of swine herds. This would entail moderate amounts of funds, which we presently do not have.

Ms. Judy Cooper
Page Number: 2
March 22, 1993

Ms. Cooper, this outlines the importance of the regulation being reinstated into our regulations. It is truly in my judgement, a rule which merits the label of "Emergency". I regret that the vital importance of this regulation was not stated in the original brief. My kindest regards are enclosed.

Sincerely,



Lewis P. Thomas, D.V.M., M.P.H.
Director, Animal Health Programs

LPT/vly

DATE: March 9, 1993

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Gus R. Douglass, Commissioner of Agriculture

EMERGENCY RULE TITLE: Animal Disease Control

1. Date of filing: March 9, 1993

2. Statutory authority for promulgating the emergency rule:
19-9-2

3. Date of filing of proposed legislative rule: _____

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

This emergency rule is an amendment to a current rule.

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare

This rule is filed as an emergency to protect the public health, safety and welfare from the spread of pseudorabies from swine to cattle, sheep, wildlife, dogs and cats. The amendment will require that all swine have a health certificate showing they are free from pseudorabies or that they come from a qualified herd before they may be exhibited. This complies with USDA program.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See answer to #6.

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MAR 9 4 03 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 61, SERIES 1

ANIMAL DISEASE CONTROL

Brief summary and description of the rule

These legislative rules establish general operating rules and procedures in the Animal Health Division of the West Virginia Department of Agriculture and are established to prevent, suppress, control and eradicate communicable diseases of livestock and poultry.

The rule covers: Biologicals,

Quarantines,

Tuberculosis or Brucellosis in Cattle,

Animal Importation,

Rules for Livestock Sales,

Requirements for West Virginia Fairs, Festivals and Purebred Consignment Sales,

Official Vaccinates,

Establishment and Maintenance of a Certified Brucellosis Free Herd,

Equine Infectious Anemia,

Pseudorabies in Swine, and

Rules for Hatcheries, Growers and Contractors Pertaining to Poultry Disease Control and Eradication.

Statement of circumstances that requires this rule

This amendment to the rule is needed, and the filing of an emergency rule is essential to protect against the spread of pseudorabies from swine to cattle, sheep, wildlife, dogs and cats. The amendment requires that all swine have a health certificate showing that they are free from pseudorabies or that they come from a qualified herd before they may be exhibited.

This provision was inadvertently removed from the version of the rule that was filed last year with an effective date of 4-27-92. The provision was in the previous version of this rule.

TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE

SERIES 1
ANIMAL DISEASE CONTROL

TITLE: Animal Disease Control

§61-1-1. General

1.1. Scope - These legislative rules establish general operating rules and procedures in the Animal Health Division and are established to prevent, suppress, control and eradicate communicable diseases of livestock and poultry.

1.2. Authority - W. Va. Code 19-9-2.

1.3. Filing Date - ~~April-23, 1992~~

1.4. Effective Date - ~~April-27, 1992~~

1.5. Amendment of Former Rules - ~~This legislative rule amends WV61CSR1--"Animal--Disease--Control"--filed--April--17--1991--and effective--on--April--15--1991. This legislative rule amends WV61CSR "Animal Disease Control" filed April 23, 1992 and effective April 27, 1992.~~

§61-1-2. Definitions

2.1. Accredited Veterinarian means any veterinarian accredited by APHIS and approved by the Animal Health Official of the state where the veterinarian is doing business.

2.2. Animal means a bird, fish, reptile, or mammal other than man.

2.3. APHIS means the Animal and Plant Health Inspection Service or its successor agency of the United States Department of Agriculture.

2.4. Approved E.I.A. and/or Pseudorabies Laboratory means any United States Department of Agriculture laboratory approved for conducting an official E.I.A. (Coggins') test and/or an official pseudorabies test.

2.5. Biologicals mean products that are intended for diagnostic or therapeutic purposes in animals other than man.

2.6. Boar means any male swine used for or intended to be used for breeding purposes.

2.7. Brucellosis or Bang's Disease is an infectious disease in bovine animals caused by any member of the Genus Brucella. Any animal is considered infected with brucellosis if it has a positive reaction to any APHIS approved test for brucellosis, or if any member of the Genus Brucella has been found in the body or its secretions or discharges, or if it has been treated with a live culture of Brucella.

2.8. Calves mean bovine animals which have not reached the usual age of maturity for the particular breed. The singular of the term is calf.

2.9. Cattle means bison or bovine animals of any age.

2.10. Certified Brucellosis Free Herd means a herd which is certified as free from brucellosis by the Commissioner and APHIS.

2.11. Cervidae means a deer or elk of any age.

2.12. Commissioner means the Commissioner of the West Virginia Department of Agriculture or his or her agent. Employees of the Veterinary Services of APHIS have the authority to act as agents of the commissioner.

2.13. Communicable disease means all the diseases listed in WV Code §19-9-1-e and the disease avian influenza.

2.14. Equine means an animal that is a member of the Equinae genus including horses, ponies, mules, asses and zebras.

2.15. E.I.A. Reactor means an equine one year of age or older who has had two consecutive positive tests for E.I.A. performed in an approved E.I.A. laboratory and one additional positive test performed in a United States Department of Agriculture. The animal may not show clinical signs of the disease.

2.16. Exposed E.I.A. Animal means any equine is or has been stabled or commingling (racetracks excluded) within 200 yards of any equine that has had a positive E.I.A. (Coggins') test and may include an animal which has had the same handler as the equine that has had the positive E.I.A. (Coggins') test.

2.17. Farm means one contiguous parcel of land operated as a unit. Parcels of land owned by a farmer, but separated by other farms are considered separate farms.

2.18. Feeder pig means any immature swine used for or intended to be used exclusively for feeding for slaughter.

2.19. Fur-Bearing animal means mink, weasel, muskrat, beaver, opossum, skunk, civet cat (commonly called polecat), otter, red fox, gray fox, wildcat, bobcat, bay lynx, raccoon or fisher.

2.20. Indemnity means money paid by the commissioner to the owner of an animal found to be a reactor for a communicable disease which cannot be cured or controlled by isolation and adequate or proper veterinary treatment. The amount of the indemnity will be the difference between the sale price of the animal and the value of the animal in the certificate of appraisal.

2.21. Non-reactor means an animal showing a negative reaction noted by a specific titer to a test.

2.22. Official Health Certificate means an official form issued by an accredited veterinarian in the state of origin and approved by the Animal Health Official of the state of origin listing all animals (with an accurate description or other identification) covered by the certificate that have been examined by the person issuing the form, stating the nature of the examination and the findings of the health of the animals covered by the certificate. In addition, the official health certificate shall contain the names and address of the consignor and the consignee of the animals, the vaccinations that the animals may have received and the dates that the vaccinations occurred. The official health certificate is void thirty (30) days after issuance.

2.23. Official Pseudorabies Serologic Test is an official pseudorabies test conducted on swine serum to detect the presence or absence of pseudorabies antibodies.

2.24. Official Pseudorabies Test is any test for the diagnosis of pseudorabies approved by the United States Department of Agriculture and conducted in an approved laboratory.

2.25. Person means any individual, partnership, association, fiduciary, firm, company, corporation or any organized group of persons whether incorporated or not. The term extends to the agents, servants, officers and employees of the person.

2.26. Pseudorabies or Aujeszky's disease (mad itch) is an infectious and contagious disease of swine and certain other warm-blooded animals.

2.27. Reactor means any animal that responds to a test for a particular disease showing a positive titer above that which is considered a negative or suspect reaction for a particular disease.

2.28. Sow means any female swine used for or intended to be

used for breeding purposes.

2.29. Stocker Cattle means sexually intact cattle not consigned to slaughter.

2.30. Suspect means an animal that shows a titer to a particular test that makes it uncertain whether the animal has been exposed or has the particular disease.

2.31. Test means an examination made to determine the presence or absence of antibodies to a disease or an incriminating reaction to an antigen or other activities to determine whether or not an animal has a particular disease.

2.32. Tuberculosis means an infectious disease caused by *Mycobacterium bovis*, commonly known as the tubercle bacillus.

2.33. Vaccine means any biological that is a preparation of live, modified-live or killed infectious agents or a preparation of tissue that is administered to produce or artificially increase immunity to a particular disease.

2.34. Vaccination means the inoculation of an animal with a vaccine.

2.35. Veterinarian means any veterinarian employed by a state or federal agency, any veterinarian in this state that is recognized by the West Virginia Veterinary Medical Association, any licensed veterinarian, or any livestock technician employed by the commissioner.

2.36. Wild Animal means any mammal native to the State of West Virginia, occurring either in a natural state or in captivity. The term does not include mice and rats.

2.37. Wild Bird means any bird native to the state, or migrating through this state and includes any imported foreign game bird, such as pheasant, partridge, quail, grouse or waterfowl regardless of whether the birds are held in captivity or not. The term does not include chicken, duck, goose, guinea fowl, peafowl, turkeys, common canary, exotic finches, ring doves or psittacidae.

2.38. Wildlife means any wild bird, wild animal, game animal, fur-bearing animal, fish (including minnows), amphibians, aquatic turtles or any aquatic animal used as fish bait, whether dead or alive.

§61-1-3. Biologicals

3.1. The commissioner restricts the sale of any vaccine containing live, modified-live or killed infectious agents for any disease known to be a public health hazard to man or that is not

yet known to occur in this state, referred to as "Restricted Vaccines"; to licensed veterinarians, to any person authorized by a county commission to conduct rabies clinics, and may further restrict the sale of any biological capable of causing harm to the public or animal health when misused to particular persons or situations.

3.1.a. The commissioner shall publish a list of Restricted Vaccines containing live, modified-live or killed infectious agents for any disease known to be a public health hazard to man or that is not yet known to occur in this state, known as "Restricted Vaccines", on January 1 of each year. The commissioner will provide this list to any person upon request.

3.2. No person may manufacture, offer for sale, or sell any biological in this state without a valid permit for the sale of biologicals issued by the commissioner.

3.3. Every person administering a biological to an animal must make a written report to the commissioner within 7 days of the administration of the biological. The report shall contain the detailed description of each animal treated, the name and the address of the owner, the name of the manufacturer of the biological and the serial number and expiration date of the product used.

§61-1-4. Quarantines

4.1. The commissioner may place a special or a general quarantine on any animal or animals as provided by WV Code §19-9-13,14 and 15 and by this rule, when any animal is found to be infected with any contagious or infectious disease, when he suspects that any animal is infected with any contagious or infectious disease, or when the animal has been imported into this state in violation of the provisions of WV Code §19-9-1 et seq. or this rule.

4.2. The commissioner may extend the special or general quarantine to the premises where the animal is or has been located when the premises is suspected of being capable of transmitting the disease to other animals or humans, or the animal needs to be segregated from other animals so as not to transmit the disease to other animals or humans.

4.3. The commissioner may extend the special or general quarantine to the meat or milk products of any animal found to be, or suspected of having, any contagious or infectious disease and to any equipment used in the collection, transportation, processing or manufacturing of the meat or milk products of these animals.

4.4. No person may move any animal or article under

quarantine from the area specified in the quarantine while the quarantine is in effect, except when the commissioner gives written permission for this movement to take place.

4.5. The commissioner will release a quarantine when the animal, product or location under quarantine is found to be free of disease or not capable of causing the transmission of disease to other animals or man.

4.6. The commissioner shall allow those animals that were released from quarantine when found to be free of disease to enter commerce free from any restraint caused by the quarantine.

§61-1-5. Tuberculosis or Brucellosis in Cattle

5.1. No person other than an accredited veterinarian, a qualified official of the United States Department of Agriculture or agents of the commissioner may perform any activity for the control or eradication of brucellosis or tuberculosis.

5.2. Each laboratory performing tests for brucellosis or tuberculosis is responsible for reporting in writing to the commissioner the results on all tests for brucellosis and tuberculosis as soon as the test results are received. Each report shall contain a description of the animal including the tattoo or ear tag number and any other marks of identification, the sex, the age the breed, the complete test results, the name and address of the owner of the animal, the place where the animal was located when tested, and the name and address of the person testing the animal.

5.3. The test results for brucellosis will be evaluated with other factors such as the age of the animal, the age of vaccination, if any, and the herd conditions when the commissioner is determining if an animal is a reactor; provided that an animal tested at a public market will be considered a reactor when both the buffered plate antigen at a 1/25 dilution of serum and the standard card test results are positive.

5.4. The commissioner may quarantine any female animal who has not had a calf when found to be a progeny of a cow that is a reactor to brucellosis until the animal has had a calf and a subsequent negative test for brucellosis.

5.5. The commissioner will quarantine any nursing bull calf found in this state that is a progeny of a cow that is a reactor to brucellosis until that animal has been castrated or the commissioner gives a special permit for the movement of that animal.

5.6. The commissioner shall mark any animal found to be infected with tuberculosis or brucellosis by placing an ear tag

supplied by APHIS in the left ear of the animal and branding the left jaw of the animal with the capital letter "B" for brucellosis or the capital letter "T" for tuberculosis in letters not less than 2 inches high and 1 1/2 inches wide. The commissioner may accept the use of hot brands for this purpose.

5.7. Any person owning any animal infected with or exposed to tuberculosis or brucellosis that is under quarantine may apply to the commissioner for permission to move the animal to slaughter. The application shall include the complete description of the animal, the place where the owner wishes to have the animal slaughtered and any other information that the commissioner may require to determine if he should grant such a permit.

5.7.a. If the commissioner grants permission to move to slaughter and issues a VS FORM 1-27 for this purpose, the permit shall specify all conditions for movement under which the permit is approved including the requirement that the slaughter take place under the supervision of an authorized Federal or State meat plant veterinarian. The commissioner will require the authorized Federal or State meat plant veterinarian supervising the slaughter to provide him forthwith a post-mortem report on the animal in the case where the animal was found to be a reactor to tuberculosis.

5.8. The commissioner will pay an indemnity to the owner of any bison or bovine animal that has been found to be infected with either brucellosis or tuberculosis or to be a reactor to these diseases under the following conditions:

5.8.a. Funds for the payment of indemnities are available to the commissioner

5.8.b. The animal was located in this state when it was when found to be infected or when found to be a reactor.

5.8.c. The animal was tested for brucellosis using an APHIS approved test by veterinarians employed by APHIS or by the commissioner or for tuberculosis using an APHIS approved test by an accredited veterinarian.

5.8.d. The animal had been vaccinated for brucellosis within the age limits prescribed by the commissioner, as specified in section 9 of this rule, and the animal was at least 20 months of age, if an animal of a dairy type breed, or at least 24 months of age, if an animal of a beef type breed when found to be infected or when found to be a reactor.

5.8.e. The animal was not vaccinated for brucellosis as an adult nor maintained in a herd where vaccination for brucellosis of any animal in the herd has occurred at an age other than that specified in section 9 of this rule of these rules.

5.8.f. The animal has been quarantined, branded, been issued a certificate of appraisal by the commissioner and slaughtered under the supervision of a Federal or State meat plant veterinarian.

5.8.g. The owner of the animal has allowed a quarantine to be placed on all the animals remaining under his ownership, signed an agreement with the commissioner listing all cattle owned by him and agreed to testing for brucellosis or tuberculosis on all cattle listed in the agreement. The owner has further agreed to destroy any animal found to be infected within 15 days of the date that the commissioner issues a certificate of appraisal for any animal found to be infected.

5.8.h. The owner of the animal has agreed to comply with WV Code §19-9-28 through §19-9-37 and with the provisions of this rule.

5.8.i. The owner of the animal has agreed to make any further additions to the herd in compliance with the provisions of WV Code §19-9-1 et seq. and with section 6 of this rule.

5.8.j. The owner of the animal has cleaned and disinfected all premises where the animal was located while it was infected.

5.8.k. The owner has not been negligent nor carelessly exposed any animals under his care to brucellosis or tuberculosis, and the owner has not purchased any animal that he knew or had reason to believe that had a communicable disease.

5.8.l. The owner of the animal is not any governmental agency or a political sub-division of this state.

5.8.m. The owner of the animal or his agent has not been previously found to have engaged in any fraudulent attempt to obtain an indemnity for any animal.

5.8.n. The owner of the animal has sold the animal at the highest possible price.

5.9. The commissioner will issue a certificate of appraisal based on the purebred value of the animal only when the purebred registration certificate is submitted to the commissioner prior to making the appraisal, unless the animal is less than three years of age, in which case the commissioner will be allowed to amend the appraisal within 30 days after the original certificate was issued when the breed association submits the registration certificate for the animal. All other certificates of appraisal shall appraise the cattle at a value of a non-purebred, or grade, animal.

5.10. The commissioner will require that any herd that has been released from a brucellosis quarantine after the reactor animals in the herd have been removed, be retested for brucellosis at 9 and at 12 months after the quarantine is lifted.

§61-1-6. Animal Importation

6.1. No person may import any animal into this state in violation of the provisions of WV Code §19-9-1 et seq. or with these rules. Any animal that is imported into this state in violation of WV Code §19-9-1 et seq. or these rules is subject to quarantine at the expense of the owner of the animal. Animals imported into this state for the sole purpose of exhibition at a fair or festival or for sale at a purebred consignment sale are subject to the provisions of section 8 of this rule in addition to those of this section.

6.2. No person may import any animal into this state that is infected with a communicable disease, that has recently been exposed to a communicable disease, or that is from an area under a state or federal quarantine; except for the provisions of this section of the rule.

6.3. No person may import any animal into this state for breeding purposes or that is to be included in a dairy herd without a valid official health certificate.

6.4. The commissioner may require that an animal that is imported into this state for sale at a public market or when exhibited at a fair or festival in this state have a valid official health certificate issued by an accredited veterinarian when the protection of the public and/or animal health of this state warrants this requirement.

6.5. The animal health official of the state of origin of the animal to be imported into this state should forward the official health certificate to the commissioner, in care of the Animal Health Division, prior to the importation of the animal.

6.5.a. The commissioner will not accept an official health certificate unless the name of the consignor and the consignee of the animal, an accurate description or identity of the animal, the general health status and any other information that is required by the provisions of this rule is listed on the certificate.

6.6. The commissioner may decline to accept the official health certificate of any animal, and thus prevent the importation of the animal, under the provisions of WV Code §19-9-25.

6.7. The commissioner may require that an animal have a

special permit issued by him prior to importation into this state as specified by this section of the rule.

6.7.a. When the commissioner requires that the animal to be imported have a special permit, the owner or cosigner of the animal shall apply to the commissioner for the permit. The application shall state the name of the owner, the description of the animal, the place of origin and destination of the animal. The application may cover the importation of more than one animal if the origin and destination are the same.

6.7.b. No person may import an animal that requires a special permit for entry without a valid special permit and may not import an animal in any manner that is contrary to the provisions of the permit issued.

6.7.c. The commissioner will not issue a special permit for any animal that is not consigned to a legal resident of this state.

6.7.d. The commissioner will issue a special permit for a period not to exceed fifteen days after the date of issue.

6.8. The commissioner may allow any animal that does not have, or that has not been exposed to a communicable disease, to be imported into this state for immediate slaughter without an official health certificate. The commissioner will allow an animal to be imported into this state for immediate slaughter when that animal has a communicable disease or has been exposed to a communicable disease only under the provisions of this section of the rule.

6.9. Nursing animals may be imported into this state on the dam's test or status, except where otherwise specified.

6.10. Any person in possession of any animal that is imported into this state shall maintain the official health certificate on the waybill that shall accompany the animal at all times.

6.11. All owners and operators of common carriers, railway cars, trucks and any other conveyance are prohibited from moving livestock into this state or through this state unless the common carrier, railway car, truck or other conveyance:

6.11.a. is maintained in a sanitary condition, or

6.11.b. has been thoroughly cleaned and sanitized after the use for the transportation of any animal that has been exposed to or that has any communicable disease, provided that in the case where any animal that has been exposed to or that has tuberculosis, the owner or operator of that conveyance shall maintain proof with the waybill that the cleaning and sanitizing of the conveyance has

occurred under official supervision.

6.12. Cattle

6.12.a. No person may import into this state any bison or bovine animal that is affected with or that has been exposed to scabies.

6.12.b. The commissioner will not require any bison or bovine animal that is not capable of reproducing to have had a tuberculosis or brucellosis test prior to entry.

6.12.c. The commissioner will allow any bison or bovine animal infected with brucellosis or tuberculosis to enter this state only for slaughter, and only when a VS FORM 1-27 has been issued for that animal.

6.12.d. No person may import any bison or bovine animal into this state that has been infected with or has been exposed to brucellosis or tuberculosis without a valid special permit issued by the commissioner.

6.12.d.A. The special permit that the commissioner issues for an animal infected with or exposed to brucellosis or tuberculosis shall require that the animal be quarantined for not less than ninety days after importation and shall be retested after that time at the owner's expense to determine that the animal is not infected with, or a reactor to, brucellosis or tuberculosis.

6.12.e. No person may import any bovine into this state that is from a herd that has been under quarantine for tuberculosis during the twelve months previous to the importation unless that animal has had a negative tuberculosis test no more than 2 months prior to importation into this state.

6.12.f. The commissioner will allow any bison or bovine animal imported for breeding purposes or for use in a dairy herd to be imported into this state with an official health certificate and

6.12.f.A. without a tuberculosis test on the animal when that animal comes from a herd that has been completely tested for tuberculosis and found to contain no reactors within 12 months previous to the importation, or when the animal comes from a herd that is accredited as Tuberculosis Free by APHIS, or

6.12.f.B. with a negative tuberculosis test no more than 2 months prior to importation into this state.

6.12.g. The commissioner will allow any female animal that has not had a calf but that has been vaccinated for brucellosis and that comes from a herd of unknown brucellosis status to be imported into this state only when a special permit

has been issued. The special permit shall require that the animal shall be quarantined until after the animal's first parturition and a subsequent negative test result for the presence of brucellosis.

6.12.h. The commissioner will allow any bovine to be imported for immediate slaughter, or to a public stockyard without an official health certificate or a special permit; except for any bovine that has been vaccinated for brucellosis at an age older than 240 days when he will require that the animal be issued a VS FORM 1-27 prior to the importation of the animal for the purpose of immediate slaughter.

6.12.i. No person may import for feeding purposes any bison or bovine animal that has been infected with tuberculosis or brucellosis, that is under 18 months of age and that is sexually intact unless that animal has a valid official health certificate and is permanently identified. The commissioner will not require tests for tuberculosis or brucellosis for these animals. The commissioner will place this animal under quarantine upon entry into this state until the animal is slaughtered or removed from this state.

6.12.i.A. The commissioner will require that any bison or bovine animal that has been infected with tuberculosis or brucellosis be imported into this state only with a valid VS FORM 1-27 issued by APHIS and only for movement directly to slaughter.

6.12.j. No person may import any bovine into this state for breeding or milking purposes from any state that is designated a "Free", "Class A", "Class B" or "Class C" state as designated by the United States Department of Agriculture unless the following conditions are met:

6.12.j.A. The animal is

6.12.j.A.(a) from a herd that is a United States Department of Agriculture Certified Brucellosis Free Herd, is a verifiable progeny of the herd, and the latest complete herd test date and results are noted on the official health certificate; or

6.12.j.A.(b) from a "Free" state and has been tested and found to be free of brucellosis within 1 month of importation into this state, unless the animal is a dairy type animal less than 20 months of age and is an official vaccinate or is a beef type animal less than 24 months of age and an official vaccinate, where the commissioner will not require a brucellosis test on that animal; or

6.12.j.A.(c) from a "Class A" state must be

6.12.j.A.(c)(A) from a herd that has had

a complete herd test for brucellosis not more than 12 months and not less than 3 months prior to the importation; or

6.12.j.A.(c)(B) shall be from a herd that has had a negative milk ring test not more than 6 months and not less than 180 days prior to entry; and

6.12.j.A.(c)(C) each individual animal shall have had a negative brucellosis test no more than 30 days prior to entry, except for official vaccinates of dairy breeds that are less than 20 months of age, or for official vaccinates of beef breeds that are less than 24 months of age where the brucellosis test is not required.

6.12.j.A.(d) from a "Class B" or "Class C" state where the commissioner will require that the animal has a special permit prior to entry. The special permit will require that any animal that is not from a Certified Brucellosis Free Herd be quarantined upon arrival into this state, and be retested for brucellosis at the owner's expense not more than 6 months, but not less than 2 months after entry when that animal. The quarantine will be released when the animal is found to test negative after the test. An animal from these states must be

6.12.j.A.(d)(A) from a Certified Brucellosis Free Herd; or

6.12.j.A.(d)(B) be from a herd that has had two negative complete herd tests for brucellosis not more than 12 months and not less than 3 months prior to the importation of the animals (with the tests at least 3 months apart); or

6.12.j.A.(d)(C) may be from a herd that has had two negative milk ring tests not more than 12 months and not less than 3 months prior to entry; and

6.12.j.A.(d)(D) each individual animal shall have had a negative brucellosis test no more than 30 days prior to entry, except for official vaccinates of dairy breeds that are less than 20 months of age, or for official vaccinates of beef breeds that are less than 24 months of age where the brucellosis test is not required.

6.12.k. No person may import any bovine under 18 months of age that is capable of reproducing into this state for feeding purposes without an official health certificate, some form of permanent identification, and without allowing the commissioner to place the animal under quarantine until slaughtered or moved out of this state. The commissioner will require any animal that is capable of reproducing that is over 18 months of age when imported into this state meet all the requirements of cattle imported for breeding cattle, in this section of these rules.

6.12.1. Any animal that is imported into a dairy or breeding herd should be segregated from the herd until a brucellosis test is made within 45-120 days after importation and negative results are received.

6.13. Goats

6.13.a. No person may import any goat into this state that has been infected with or has been exposed to brucellosis or tuberculosis without a valid special permit issued by the commissioner.

6.13.b. No person may import any goat into this state for breeding or milking purposes unless that animal has a valid official health certificate showing that the animal has had a negative tuberculosis test within 2 months prior to entry into this state or the animal has been maintained in a herd that is a United States Department of Agriculture Accredited Tuberculosis Free Herd.

6.13.c. No person may import any goat into this state for breeding or milking purposes without a valid official health certificate showing that the animal has had a negative brucellosis test within 1 month prior to entry into this state or the animal has been maintained in a herd that is a United States Department of Agriculture Certified Brucellosis Free Herd.

6.14. Equines

6.14.a. No person may import any equine, for any purpose except for sale at a public market, without a valid official health certificate showing the results of a negative approved APHIS test for E.I.A. attached to or noted on the certificate and that the animal has been found free of symptoms of any infectious or clinical disease. The commissioner will accept the test result from a test within 12 months prior to importation into this state if the state of importation has an E.I.A. program that equals or exceeds the program outlined in section 11 of this rule. In all other cases, the commissioner will accept the test result from a test within 6 months prior to importation into this state.

6.15. Sheep and lambs

6.15.a. No person may import any sheep or lambs into this state for any purpose other than immediate slaughter without a valid official health certificate showing the that flock of origin was fully examined not more than thirty days prior to entry and found to be free of scabies, contagious ecthyma (sore mouth), foot rot, or any other contagious or communicable disease.

6.15.b. The commissioner will prohibit the importation of any sheep or lambs into this state that have a condition that can be treated with full immersion in a pesticidal solution, unless

that animal has been so treated within 10 days prior to entry.

6.16. Swine

6.16.a. No person may import into this state any swine that have been vaccinated for pseudorabies.

6.16.b. No person may import into this state any swine that does not have a valid official health certificate that identifies the animal and states that the animal is free of any infectious or contagious disease, unless the animal has been consigned to immediate slaughter upon entry.

6.16.c. No person may import into this state any swine that are to be used for breeding purposes that does not contain the following information on the official health certificate;

6.16.c.A. a negative brucellosis test within 1 month prior to importation into this state unless the animal is from a herd that has a certification from the United States Department of Agriculture as a Validated Brucellosis Free Herd and the official health certificate shows the date of the last brucellosis test on that herd; and

6.16.c.B. a negative official pseudorabies serologic test or other official pseudorabies test within 1 month prior to importation, unless the animal is from a herd that has a certification as a qualified pseudorabies negative herd.

6.16.d. All brucellosis tests must be a United States Department of Agriculture approved test.

6.17. Wildlife

6.17.a. The commissioner will not allow the importation of any wildlife into this state without a valid official health certificate and without evidence that the animal has been issued a valid "Wildlife Importation Permit" by the Department of Natural Resources, unless that animal is not required to obtain that permit by the Department of Natural Resources.

6.17.b. Cervidae and Elk

6.17.b.A. No person may import any animal of the Cervidae genus, except for animals that are consigned directly to slaughter, without a valid official health certificate issued by an accredited veterinarian and a special permit from the commissioner. The official health certificate shall indicate that the animal

6.17.b.A.(a) is from a herd that has had no tuberculosis reactors found during a complete herd test for tuberculosis on all animals six months of age and older within the 12 months prior to the importation; and

6.17.b.A.(b) is an animal that has had a negative tuberculosis test within 2 months prior to the importation of the animal; and

6.17.b.A.(c) that the animal has had a negative brucellosis test within 1 month prior to the importation of the animal.

6.17.b.B For purposes of this section of the rule, the complete herd test for tuberculosis shall use the single cervical test as prescribed by the United States Department of Agriculture on December 31, 1990.

6.17.b.C. No person may import any animal of the Cervidae genus consigned directly to slaughter without an official health certificate and may only import an animal that has been exposed to tuberculosis or brucellosis with a VS FORM 1-27 issued by APHIS accompanying the animal.

6.17.c. No person may import any animal into West Virginia that is to be placed in a zoo, or is of a species likely to be found in a zoo, without a valid official health certificate issued by an accredited veterinarian. The official health certificate shall state that the animal has been examined within 1 month prior to entry and found to be free of any communicable disease nor known to have been exposed to any communicable disease.

6.18 Dogs and Cats

6.18.a. No person may import any dog or cat into this state that is over 6 months of age without a valid official health certificate that states that the animal has had a rabies vaccination within the 12 months prior to the importation.

6.19. Birds

6.19.a. No person shall import any bird that is from a flock that is known to be infected with pullorum/typhoid or that is from an area under quarantine for Avian Influenza or Viscerotropic Velogenic Newcastle Disease.

6.19.b. The commissioner requires that any bird that is imported into this state be accompanied by

6.19.b.A. a statement completed and signed by the owner of the bird upon entry that the bird has been free from disease for the 30 days prior to the importation of the bird and did not originate from a flock known to be infected with pullorum/typhoid;

6.19.b.B. a United States Department of Agriculture Form 9-2 from the tester stating that the birds have been tested

for pullorum typhoid within 3 months prior to the date of the importation;

6.19.b.C. a United States Department of Agriculture Form 9-3 from the tester indicating that the bird has originated from a flock that is not infected with pullorum/typhoid; or

6.19.b.D. the commissioner will require that the bird must be tested for pullorum typhoid and shown to be free of disease by a tester at the time and place of importation.

§61-1-7. Rules for Livestock Sales

7.1. The commissioner shall test all bovine animals for the presence of brucellosis that are over 18 months of age and sexually intact, except for

7.1.a. any male animal that is considered to be too dangerous to test; and

7.1.b. any official vaccinate that is under 20 months of age for animals of dairy-type breeds and under 24 months of age for animals of beef-type breeds.

7.2. The commissioner will require that any animal considered to be too dangerous to test for brucellosis be consigned directly to slaughter.

7.3. The commissioner will require that any animal, including female nursing calves of a reactor, found to be a reactor for brucellosis at a public sale be issued a VS FORM 1-27 and be permanently identified as a brucellosis reactor by his agents at the sale and be consigned directly to a slaughterhouse from the public sale; except for male nursing calves which may be returned to the owner after castration.

7.4. The commissioner will allow animals found to be exposed to brucellosis at a public sale to be

7.4.a. returned to the owner if the animal is a male nursing calf and it has been castrated;

7.4.b. returned to the owner in the state of West Virginia after the animal and the herd of origin are placed under quarantine and not returned to the public sale until the quarantine is removed; or

7.4.c. returned to the owner in a state other than West Virginia after agreement of the commissioner, the United States Department of Agriculture and the animal health official of the state of origin.

7.5. The commissioner will require that any animal found to be diseased, down, drugged or dying be consigned directly to slaughter.

7.6. No person may import any cattle to a public sale from a United States Department of Agriculture "Class B" or "Class C" state unless that animal meets to requirements set forth in section 6 of this rule.

§61-1-8. Requirements for West Virginia Fairs, Festivals and Purebred Consignment Sales

8.1. General

8.1.a. No person may import any animal into the state of West Virginia for showing at a fair, festival, show or sale without a valid official health certificate that has been received by the commissioner at least 5 days prior to the importation of the animal.

8.1.b. The commissioner will permit a nursing animal to move based on the test status of the dam.

8.2. Cattle

8.2.a. No person may import an animal into this state for the purpose of exhibition without a valid official health certificate.

8.2.b. No person may import an animal into this state for the purpose of exhibition without a special permit when the commissioner requires that a special permit be issued due to a disease outbreak in the state of origin.

8.2.c. The commissioner recommends that no bovine or bison animal be exhibited in this state that is affected with warts, pinkeye, or ringworm.

8.2.d. Tuberculosis

8.2.d.A. No person may show any bovine or bison originating within this state unless the animal is:

8.2.d.A.(a) from a United States Department of Agriculture Accredited Tuberculosis Free Herd;

8.2.d.A.(b) from a herd that has had a complete negative tuberculosis herd test within the 12 months prior to the show;

8.2.d.A.(c) the animal will not be sold in

this state, is less than 24 months of age;

8.2.d.A.(d) the animal has had a negative tuberculosis test within the calendar year of the exhibition but prior to the date of exhibition; or

8.2.d.A.(e) the animal will be shown in a slaughter class.

8.2.d.B. No person may show any bovine or bison originating from without this state unless the animal meets all the requirements of subparagraph 8.2.d.A. of these rules; except that

8.2.d.B.(a) the animal has had a negative tuberculosis test within 3 months prior to the date of exhibition, when a test is required; and

8.2.d.B.(b) animals shown in slaughter classes must have an individual test and meet the requirements of the paragraphs 6.12.e. and 6.12.f. of this rule, except that the negative tuberculosis test must be within 3 months prior to the importation into this state.

8.2.d.C. No person may offer any bovine or bison for sale at a purebred consignment sale unless that animal meets the requirements set forth in paragraphs 6.12.e. and 6.12.f. of this rule.

8.2.e. Brucellosis

8.2.e.A. No person may exhibit any animal, except for steers, at a fair, festival or show that is from a herd that is under quarantine for brucellosis.

8.2.e.B. No person may exhibit an animal at a fair, festival or show that requires an official health certificate when that certificate does not show the animal to be a verifiable progeny of a particular herd.

8.2.e.C. No person may exhibit an animal at a fair, festival or show unless that animal originated from a herd

8.2.e.C.(a) that is a United States Department of Agriculture Certified Brucellosis Free Herd;

8.2.e.C.(b) the herd of origin has had a complete negative brucellosis test within the 12 months prior to the exhibition of that animal;

8.2.e.C.(c) the animal originates in West Virginia and has had a negative brucellosis test within the calendar year of the exhibition but prior to the exhibition except

for official vaccinates that are less than 20 months of age for dairy type breeds, or 24 months of age for beef type breeds, in which case no individual test is required; or

8.2.e.C.(d) the animal originated in a state other than West Virginia and has had a negative brucellosis test within 1 month prior to the exhibition except for official vaccinates that are less than 20 months of age for dairy type breeds, or 24 months of age for beef type breeds, in which case no individual test is required.

8.2.e.D. No person may offer any bovine or bison for sale at a purebred consignment sale unless that animal meets the requirements of paragraph 6.12.j. of this rule.

8.2.f. Leptospirosis

8.2.f.A. No person may exhibit any non-pregnant female animal or any other animal other than those to be slaughtered within 1 month after the exhibition at a fair, festival, or show unless that animal has been vaccinated with Leptospirosis pomona within 12 months prior to the exhibition.

8.2.f.B. No person may exhibit any animal that is required to have had a vaccination with Leptospirosis pomona without showing to the officials in charge of the exhibit a vaccination certificate that shows the date of vaccination, the name of the herd owner, the serial number of the vaccine, the pharmaceutical company distributing the vaccine and the name of the person vaccinating the animal.

8.2.f.C. The commissioner recommends, but does not require, that all bovines be vaccinated with Leptospirosis pomona, L. canicola, L. icterohaemorrhagiae, L. hardjo and L. grippotyphosa within 12 months prior to the date of the exhibition.

8.3. Goat

8.3.a. No person may import any goat into this state for the purpose of showing at an exhibition without a valid official health certificate.

8.3.b. No person may import an animal into this state for the purpose of exhibition without a special permit when the commissioner requires that a special permit be issued due to a disease outbreak in the state of origin.

8.3.c. No person may import any goat showing signs of caseous lymphadenitis, unless the animal has been issued a written statement from an accredited veterinarian that the node, or nodes, show no signs of rupture during the time the animal is expected to be in this state.

8.3.d. The commissioner recommends that any goat being imported into this state follow the same rules for cattle for tuberculosis set forth in paragraph 8.2.d. of this rule.

8.3.e. The commissioner recommends that no goat be exhibited in this state that is affected with warts, pinkeye, or ringworm.

8.4. Equine

8.4.a. No person may exhibit any equine from any band that is under quarantine for any communicable disease.

8.4.b. No person may exhibit any equine that shows signs of any infectious or communicable disease.

8.4.c. The officials of the exhibition are responsible to see that all equines shown meet the requirements of this subsection.

8.4.d. No person may exhibit any equine originating from outside this state without a valid official health certificate that shows the test results for an E.I.A. test.

8.4.e. No person may exhibit any equine without a negative E.I.A. test within 24 months prior to the exhibition, if the animal originates from within this state, or that the animal has had a negative E.I.A. test within 12 months prior to the exhibition if the state of origin has an E.I.A. program at least equal to the program set forth in section 11 of this rule, or that the animal has had a negative E.I.A. test within 6 months prior to the exhibition.

8.4.e.A. For purposes of this section the negative E.I.A. test must have been performed in an approved United States Department of Agriculture laboratory.

8.5. Sheep and Lambs

8.5.a. No person may exhibit any sheep or lamb that is capable of breeding that does not have a valid official health certificate or that does not have a certificate that the animal originates from an Honor Flock as designated by the commissioner.

8.5.b. The commissioner will inspect all sheep or lambs in the market class for the presence of any infectious disease when the animal is exhibited. The commissioner may refuse to allow an animal to be shown based on the results of the examination.

8.6. Swine

8.6.a. No person may exhibit any swine without an

official health certificate or official test record from an approved pseudorabies laboratory that shows that the animal has had a negative pseudorabies test within 60 days prior to the exhibition or that shows that the animal is from a qualified pseudorabies negative herd and shows the qualified pseudorabies negative number and the date(s) of the last qualifying test(s).

8.6.a. 8.6.b. No person may exhibit any swine originating within this state that is capable of breeding that has not had an examination by a veterinarian within 5 days prior to the exhibition and been found to be free from any symptoms of infectious disease.

~~8.6.b.--No person may exhibit any swine originating from outside this state that is capable of breeding without a valid official health certificate that shows that the animal has been examined and found to be free from any symptoms of infectious disease and that the animal is from a qualified pseudorabies free herd or that has had a negative pseudorabies test within 2 months prior to the exhibition.---In addition the official health certificate for any animal from a qualified pseudorabies free herd shall show identify the herd of origin and indicate the date of the last pseudorabies test performed on that herd.~~

8.6.b.A. For purposes of this section a serum neutralization test or other pseudorabies test approved by APHIS will be accepted.

8.6.c. The commissioner may require a statement from the animal health official of the state of origin that the animal did not originate from an area where pseudorabies is known to be present.

8.7. Birds

8.7.a. The provisions of subsection 6.19 of this rule apply to the exhibition of birds in this state.

8.7.b. The management of the exhibit shall maintain records of the documents required by this section including the names and addresses of all exhibitors and the number of birds exhibited by those persons for a period of 2 years after the show and shall provide the records to the commissioner upon request.

8.7.c. The management of the exhibit shall deny entry to all birds of a particular owner when any one of the birds of that owner tests positive for pullorum-typhoid.

8.7.d. The owner of any bird found to test positive for pullorum typhoid will submit the bird to the commissioner who will necropsy the bird and sample the tissues for recovery of the organism.

§61-1-9. Official Vaccinates

9.1. Official vaccinates are calves that have been vaccinated for brucellosis between the ages of 120 days and 240 days by an accredited veterinarian who

9.1.a. marks the calf at the time of vaccination with a legible tattoo consisting of the numeral of the quarter of the year, a "V-shield", followed by number indicating the last number in the current year in the right ear of any calf and securely fastens a metal ear tag in the right ear of any calf that does not already have a legible purebred registration tattoo; and who

9.1.b. completes a Calfhood Vaccination Report on the animal using forms supplied by the commissioner. The completed report contains the name and address of the owner of the calf, the county where the animal was located when vaccinated, the date of the vaccination, the manufacturer and serial number of the vaccine, the number of the ear tag or the purebred animal tattoo, a stamp of the tattoo, the breed, designation of purebred or grade, the sex of the animal, the date of birth, the name and address of the person completing the report.

9.2. The accredited veterinarian shall forward the original and one copy of the Calfhood Vaccination Report to the commissioner, in care of the Animal Health Division and one copy to the owner of the calf no later than five days following the vaccination. The accredited veterinarian shall keep one copy of the report for ten years following the vaccination.

9.3. No person shall classify any official vaccinate as a reactor or suspect for brucellosis, even though the test results may indicate a reactor or suspect, until the animal has been tested after they have reached 20 months of age for animals of the dairy breeds or 24 months of age for animals of the beef breeds.

9.4. The commissioner will classify vaccinated calves or adults from herds containing reactors to brucellosis as reactors when reaching the age of 20 months for animals of dairy type breeds or 24 months for animals of beef type breeds, only if they have a titer of a reactor.

§61-1-10. Establishment and Maintenance of a Certified Brucellosis Free Herd.

10.1 For the purpose of this section, the term herd means one or more cattle six months of age or older that are cows or bulls. No steers or spayed heifers or official vaccinates that are less than 20 months of age for dairy animals or 24 months of age for beef animals will be considered to be part of a herd. A herd shall be located on a farm any may consist of animals located in separate

fields of a farm. The animals in a herd may have several owners.

10.2. Establishment of Herd Status

10.2.a. The owner, or owners, of the herd must sign an agreement with the commissioner that they will comply with WV Code §19-9-20 through 24 and with the provisions of this rule.

10.2.b. The commissioner and the United States Department of Agriculture will certify the herd as brucellosis free after two series of tests for brucellosis between 10 and 14 months apart shows that all animals in the herd are free from brucellosis.

10.2.c. The commissioner and the United States Department of Agriculture will then issue a certificate for the Certified Brucellosis Free herd. The certificate shall be valid for one year unless sooner revoked by the commissioner for non-compliance with the provisions of WV Code §19-9-20 through 24 or with the provisions of this rule.

10.3. Maintenance of Herd Status

10.3.a. The commissioner and the United States Department of Agriculture will renew a certificate for a Certified Brucellosis Free Herd for the period of one year when the herd has shown no reactors after a complete herd test.

10.3.b. The owner, or owners, of the herd shall cause any animal in a certified herd that is suspected of having brucellosis to be segregated from the herd. The animal shall be retested between 30 and 60 days after the initial test. If the animal is found to test negative to the retest, it can be returned to the herd and the animal will not be the cause for non-renewal of the certified herd certificate. The commissioner recommends that all animals in the herd be tested at 180 days under these conditions.

10.3.b.A. If the suspect tests as a reactor during the subsequent test, then all animals in the herd shall be tested again for brucellosis.

10.3.c. If more than one reactor is found in a herd, the commissioner will refuse to renew, or revoke, the certificate and the owner of the herd must be in the process of establishment of herd status.

10.3.c.A. The commissioner shall quarantine the herd until brucellosis testing has been performed to establish the status of the herd and the animals in the herd.

10.3.d. Addition of animals

10.3.d.A. The owner, or owners, of the herd may add animals to the herd during the period of establishment of herd status or while the herd is certified under the following conditions:

10.3.d.A.(a). The animal is from a herd that is certified as free of brucellosis. The commissioner will not require the animal to have had a test for brucellosis prior to entry.

10.3.d.A.(b). The animal is over 6 months of age and is from a herd that is in the process of establishing brucellosis certification. The animal must have a negative brucellosis test within 30 days of importation into the herd. The animal must be separated from other animals in the herd until they show a negative brucellosis test at 60 days after importation into the herd and segregation.

§61-1-11. Equine Infectious Anemia

11.1. The commissioner shall immediately quarantine any equine that is found to be an E.I.A. Reactor. The quarantine shall extend to all Exposed E.I.A. Animals and to any place or location that the commissioner deems necessary to protect the health of the equines of this state.

11.1.a. The commissioner may consider all racehorses handled by the same trainer as Exposed E.I.A. Animals.

11.1.b. The commissioner may consider all other equines that have been housed in the same shed row or stall area as Exposed E.I.A. Animals.

11.1.c. If the E.I.A. Reactor has a foal, the foal should be isolated from the reactor as soon as possible after birth and E.I.A. tested. Any foal that is found to be an E.I.A. Reactor shall be placed under quarantine. If the foal is tested at 12 months of age and found to be an E.I.A. Reactor at that time, then the quarantine shall remain in effect and the commissioner will brand the animal.

11.2. Under terms of the quarantine the commissioner will require the E.I.A. Reactor to be isolated from all equines by stabling or pasturing at least 200 yards from all other equines.

11.3. The commissioner will identify all E.I.A. Reactors with a visible freeze brand under the mane on the left side of the equine. The brand shall start with "54 A" and end with a number that the commissioner assigns to the equine.

11.4. The commissioner will allow the E.I.A. Reactor to be

removed from the quarantine area only upon written permission.

11.5. The quarantine will remain in effect for all Exposed E.I.A. Animals after the E.I.A. Reactor has been removed.

11.6. The commissioner shall not release the quarantine for Exposed E.I.A. Animals until all Exposed E.I.A. Animals have been determined to be non-E.I.A. Reactors at least 30 days after the E.I.A. Reactor has been removed from the band.

11.7. The commissioner will perform testing for Equine Infectious Anemia on any other equine that the E.I.A. Reactor has been in contact with during the past 12 months, within the limits of his resources.

11.8. The commissioner will not pay an indemnity for any E.I.A. Reactor that must be destroyed.

§61-1-12. Pseudorabies in Swine

12.1. No person shall perform a test for pseudorabies on any swine without placing an eartag on each animal that is not previously identified with eartags for their purebred registry. The commissioner will allow only a metal eartag be used for identification of feeder pigs, when eartags are used. The person performing the test shall record the sex, age, breed and the identification of the animal by the eartag number or by recording the purebred registry eartags.

12.2. No person shall sell, lend, lease, or trade any feeder or breeder swine in this state, or import into this state or export out of this state any feeder pig unless that animal

12.2.a. originates from a pseudorabies monitored herd or a qualified pseudorabies negative herd from within this state, or from a herd that meets or exceeds the requirements of these herds provided by this section; or

12.2.b. the animal has been tested and found to be free of pseudorabies within 1 month prior to the movement of the animal or the date of the sale.

12.3. Pseudorabies Monitored Herds

12.3.a. A swine breeding herd may establish their status as a pseudorabies monitored herd after all the animals required by this subsection have been found to be free of pseudorabies. All boars will be tested. All sows will be tested in herd of 10 sows or fewer. Ten randomly selected sows will be tested in herds containing 11 to 35 sows. Thirty percent of the sows, or 30 randomly selected sows, whichever is fewer, will be tested in herds

containing 36 or more sows.

12.3.b. A swine breeding herd may maintain their status as a pseudorabies monitored herd when a herd test performed twelve months after the previous test on the animals prescribed by subsection 12.3.a., all the boars, and thirty percent of the sows added to the herd since the previous herd test has shown that all animals are free from pseudorabies.

12.4. Qualified Pseudorabies Negative Herds

12.4.a. A swine breeding herd may establish their status as a qualified pseudorabies negative herd after the provisions of Title 9 Part 85.1 of the Code of Federal Regulations have been met; and

12.4.a.A. all swine over 6 months of age have been found to be free of disease when tested using an official pseudorabies serologic test, the herd is not known to have been exposed to the disease within the month previous to the test, and at least ninety percent of the animals in the herd have been in the herd and on the premises for at least 3 months prior to the test or have entered the herd directly from another qualified pseudorabies negative herd.

12.4.b. A swine breeding herd may maintain their status as a qualified pseudorabies negative herd after

12.4.b.A. all swine over 6 months of age as provided in this paragraph have been found to be free of disease when tested using an official pseudorabies serologic test; and

12.4.b.B. twenty-five percent of all swine over 6 months of age have been found to be free of disease when tested every 80-105 days using an official pseudorabies serologic test, provided that no animal will be tested more often than once every 12 months; or ten percent of all swine over 6 months of age have been found to be free of disease when tested every month using an official pseudorabies serologic test, provided that no animal is tested more often than once every 10 months.

12.5. The commissioner will accept a valid Swine Herd Health Certificate issued by the state veterinarian as proof that any animal is part of a Pseudorabies Negative Herd.

12.6. The commissioner will accept an official pseudorabies test chart indicating that the animal has been tested and found free of pseudorabies within the past month and identifying the individual feeder pig tested as proof that the animal is free of pseudorabies.

12.7. The commissioner will quarantine any swine herd

when any animal is found to be a reactor to an official pseudorabies test. The quarantine may be released only after the provisions of Title 9 Part 85.1 of the Code of Federal Regulations has been met including:

12.7.a. depopulation of all animals that have found to be reactors and all exposed swine, followed by cleaning and disinfecting the location of the herd by a method that has been approved by the commissioner; or

12.7.b. removal of all swine that have been found to be reactors, cleaning and disinfecting the premises as directed by the commissioner, followed by the testing schedule as follows:

12.7.b.A. after 1 month, testing all swine, except for nursing animals and finding all animals to test negative to pseudorabies, then

12.7.b.B. after an additional 1 to 2 months, testing all swine over 6 months of age and finding all animals to test negative to pseudorabies.

§61-1-13. Rules for Hatcheries, Growers and Contractors Pertaining to Poultry Disease Control and Eradication

13.1. General

13.1.a. For the purposes of this section a flock means a group of poultry that are characteristic of the breed, variety, cross or other combination which they are stated to represent.

13.1.b. The owners of any flock shall test all poultry on the premises, except for wild birds or unmated and segregated birds held for laying purposes, for pullorum-typhoid.

13.1.c. No person shall maintain a flock containing any individuals testing positive for pullorum-typhoid without complying with the provisions of this section of this rule.

13.1.d. The commissioner intends for the provisions of this section of the rule to supplement, and not supersede, the regulations 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 (published October 26, 1979).

13.1.e. Any person owning a hatchery or a flock will be responsible for furnishing transportation on the premises and necessary labor needed for handling birds at no expense to the commissioner or the tester when needed by the tester to perform his duties under this section of the rule.

13.1.f. The commissioner requires that all birds found to be reactors or suspected of being a reactor to any disease be removed from the flock and destroyed within 10 days after the test was reported. The owner of the animal must certify to the commissioner that the birds were destroyed within 10 days of test results in a manner approved by the commissioner.

13.2. Testing

13.2.a. The commissioner will accept only official test results. The commissioner will accept tests performed by inspectors certified by the commissioner and performed according to the provisions of this section of the rule and the National Poultry Improvement Plan and Auxiliary Provisions as official tests.

13.2.b. No person may use any chicken for breeding purposes without having that animal tested and found negative for the presence of pullorum-typhoid when over 5 months of age but before the animal is used for breeding.

13.2.c. No person may use any turkey for breeding purposes without having that animal tested and found negative for the presence of pullorum-typhoid when over 4 months of age, but before the animal is used for breeding.

13.2.d. The commissioner will not accept any test performed with any lot of pullorum-typhoid antigen that was not approved by the United States Department of Agriculture.

13.2.e. The commissioner will not accept any test performed with pullorum-typhoid antigen on any animal that has had a previous test with any Salmonella antigen within 21 days of the pullorum-typhoid test.

13.2.f. The commissioner shall set the fee for testing and inspection at a rate to reflect the actual costs of doing the testing and inspection for the commissioner's employees. The costs for testing and inspection for the commissioner's employees is 24 cents per mile for all travel and \$10 per hour for the time for travel, testing and inspection. The owner of the birds tested shall pay the fee to the West Virginia Department of Agriculture within 10 days of billing by the commissioner.

13.2.g. The owner of birds may contract with independent certified testers to perform official testing and inspection. The fees charged by the independent certified tester are not bound by the fees charged by the commissioner.

13.2.h. The tester shall identify each bird that has been officially tested with an officially sealed and numbered leg or wing band.

13.3. Reporting

13.3.a. All persons owning hatcheries shall report the total number of eggs set and the total number of chicks and poults hatched on a weekly basis to the Federal-State Crop and Livestock Reporting Service, United States Department of Agriculture, Capitol Building/Guthrie Center, Charleston, West Virginia 25305.

13.3.b. The tester shall mail all official test records within seven days of the completion of the test on the flock to the commissioner, in care of the Animal Health Division, Charleston, WV. The official test records shall include the name and address of the owner of the birds, the date of test, the number of the leg or wing band attached to the bird, the test results and the total number of birds tested in the flock.

13.3.c. Any dealer in baby chicks and broiler contractors shall keep records of the number of shipments of chicks and poults into this state for a period of 5 years and shall provide them to the commissioner upon request.

13.4. Classification of a flock

13.4.a. The provisions of the National Poultry Improvement Plan and Auxiliary Provisions will determine the classification of a flock.

13.4.b. The commissioner will not consider the test results of any animal for the purposes of classifying the flock that was found to be a reactor using antigen and subsequently found to be not infected upon necropsy and subsequent bacterial examination.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

TITLE 61, SERIES 1

ANIMAL DISEASE CONTROL

Type of rule: Legislative

Agency: West Virginia Department of Agriculture
 1900 Kanawha Boulevard, E.
 Charleston, West Virginia 25305

Effect of Proposed Rule Estimated Total Cost	ANNUAL		FISCAL YEAR		
	Increase \$	Decrease \$	Current \$	Next \$	Thereafter \$
Personal Services	0	0	0	0	0
Current Expense	0	0	0	0	0
Repairs and Alterations	0	0	0	0	0
Equipment	0	0	0	0	0
Other	0	0	0	0	0

2. Explanation of above estimates:

No change in the activities of the West Virginia Department of Agriculture are anticipated with this change. This was a provision of the rule that was previous to the amendment effective on April 27, 1992 and was inadvertently removed from the current rule.

3. Objectives of these rules:

The objective of this rule is to provide for the prevention, suppression, control and eradication of communicable diseases of livestock and poultry.

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government.

No impact on state government is expected with this amendment.

B. Economic Impact on Political Subdivisions, Specific Industries, Specific groups of citizens.

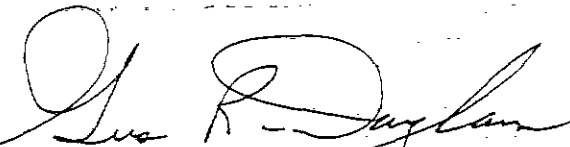
There will be no economic impact on political subdivisions.

C. Economic Impact on Citizens/Public at Large.

\$5,000

The economic impact on citizens and the public at large will be approximately a \$10 charge for the testing and preparation of the health certificate for each animal that is exhibited. The estimate is that 500 animals will be affected for a total estimated impact of \$5,000.

Date:



Signature of Agency Head or Authorized Representative



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

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March 24, 1993

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Department of Agriculture

RULE: Amendments, Series 1, Animal Disease Control

DATE FILED AS AN EMERGENCY RULE: March 9, 1993

DECISION NO. 5-93

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.


KEN HECHLER
Secretary of State

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

MAR 24 3 17 PM '93

FILED



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Secretary of State

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Deputy Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

DECISION

EMERGENCY RULE DECISION
(ERD 5-93)

AGENCY: Department of Agriculture
RULE: Amendments, Series 1, Animal Disease Control
FILED AS AN EMERGENCY RULE: March 9, 1993

- par. 1 The Department of Agriculture (Department) has filed the above amendments to an existing rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-a(a))].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the thirty-five day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The Department filed this emergency rule with supporting documents with the Secretary of State March 9, 1993 and with the LRMRC March 9, 1993.

par. 7 It is the determination of the Secretary of State that the Department has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §19-9-2 reads in part:

It shall be the duty of the commissioner, and he shall have the authority:

(a) To prevent, suppress, control and eradicate any communicable diseases of animals and poultry;

(b) To make and enforce such rules and regulations as may be necessary to effectuate the provisions of this article.

par. 9 It is the determination of the Secretary of State that the Department has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency -- WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Department are as follows:

This rule is filed as an emergency to protect the public health, safety and welfare from the spread of pseudorabies from swine to cattle, sheep, wildlife, dogs and cats. The amendment will require that all swine have a health certificate showing they are free from pseudorabies, or that they come from a qualified herd before they may be exhibited.

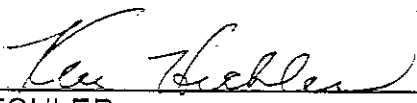
It makes it mandatory that swine exhibited at fairs and festivals be from Pseudorabies qualified Negative herds or be tested negative to pseudorabies with sixty days of the date of the exhibition. The reason for this is because of the following:

1. The introduction of pseudorabies into West Virginia from infected swine from other states could spread to many West Virginia swine herds and also to states that had swine producers exhibiting swine at West Virginia fairs.

2. Should West Virginia become infected with pseudorabies, West Virginia would be subjected to loss of pseudorabies status resulting in added testing and economic hardship on the swine producer.
3. Pseudorabies introduction into West Virginia could result in a delay of Free Status which shall be an economic advantage to West Virginia swine producer.
4. Infected swine may shed the virus in breathing, resulting in death of nearly 100% of lambs shown at exhibition.
5. Infected hogs are a threat to cattle, when infected may act wildly resulting in injury to the animal, other animals and man.
6. Pseudorabies is a threat to dogs, cats and wildlife.
7. Introduction of pseudorabies into West Virginia would result in quarantines, testing and retesting of swine herds. This would entail moderate amounts of funds, which we presently do not have.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(g). . . "public health, safety and welfare".

par. 14 This decision shall be cited as Emergency Rule Decision 5-93 or ERD 5-93 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Department of Agriculture, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

Entered _____

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

MAR 24 3 17 PM '93

FILED