

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

Form #1

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JUN -1 PM 2:31  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF PUBLIC HEARING ON A PROPOSED RULE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: \_\_\_\_\_

RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code 19-9-2

AMENDMENT TO AN EXISTING RULE: YES x NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series I

TITLE OF RULE BEING AMENDED: Animal Disease Control

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

DATE OF PUBLIC HEARING: July 10, 1989 TIME: 9:00 a.m.

LOCATION OF PUBLIC HEARING: Guthrie Agriculture Center

Johnson Auditorium

Charleston, WV 25305

COMMENTS LIMITED TO: ORAL \_\_\_\_\_, WRITTEN \_\_\_\_\_, BOTH xx

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Animal Health Division

WV Dept. of Agriculture

Guthrie Center

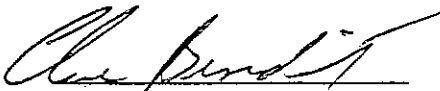
The State Capitol

Charleston, WV 25305

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

  
Cleve Benedict  
Commissioner

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SUMMARY

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These proposed regulations are presented as instruments to be used by the Commissioner of Agriculture in fulfilling the mandate expressed in § 19-9-2 of the Laws of West Virginia. One of his many duties is to prevent, suppress, control and eradicate any communicable diseases of animals and poultry. It is his responsibility to make and enforce such rules and regulations as may be necessary to effectuate the preceding sentence. These regulations, should they be adopted, will become another implement for use in promoting and protecting the health of our animals.

Pseudorabies is presently found in swine in several states-even adjoining states. While primarily a disease of swine, it can cause fatal encephalitis in dogs, cats, sheep, goats, cattle and poultry. Most swine-producing states have or are putting regulations in place to eradicate pseudorabies. These regulations attack the problem from within and without. West Virginia presently has no regulation pertaining to pseudorabies in feeder swine. Should this long exist, the resulting negative pressure will likely cause our State to be a repository for swine that are not welcome elsewhere. The State could become a reservoir for many serious diseases, should we fail to regulate the imported swine.

Personnel from the United States Department of Agriculture and the West Virginia Department of Agriculture have cooperated and will soon have tested all the breeding swine in West Virginia. Breeding swine returning to the farm from the livestock markets are tested for pseudorabies. The blood collected from the swine slaughtered at the slaughter houses in West Virginia is tested. West Virginia should soon enjoy Class III Status. With continued efforts and success, it should become Pseudorabies-Free.

Next year, and in subsequent years, the continuation of the program will rest with the producers as they carry out the stipulation of the regulations. The required State funding will be considerably less as we shall have reached the Class III Status.

Adoption of these regulations will create a framework, in which a lot of positive factors will become evident. The State will become attractive for swine producers who seek a disease-free area. The large number of feeder pigs leaving West Virginia should warrant a premium price consideration. The swine will move with a minimum of restraints. West Virginia will be able to take pride in joining with the several states in eradication of this serious disease. West Virginia will continue to be recognized for its declaration, dedication and determination to create a healthy environment for its animals.

FISCAL NOTE FOR PROPOSED RULES

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1939 JUN -1 PM 2:31

Rule Title: Animal Disease Control, Series I

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Type of Rule: Legislative

Agency: West Virginia Department of Agriculture

Address: State Capitol

Charleston, West Virginia 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$6,250.00	\$ 14,850.00	\$ 8,600.00	\$ 8,775.00
Personal Services			\$ 7,200.00	\$ 3,600.00	\$ 3,775.00
Current Expense			\$ 7,650.00	\$ 5,000.00	\$ 5,000.00
Repairs & Alterations					
Equipment					
Other					

2. Explanation of above estimates:

These estimates, and they are just that, are based on the actual expenditures during the current year for test kits and an estimate of the time spent by the different individuals involved. The salaries, including the cost of the fringe benefits are calculated on an hourly basis. An estimate was made of the amount of travel involved. From these approximations and actual expenditures a reasonably valid estimate is presented.

The involvement of department personnel shall be considerably less in subsequent years, year to year.

3. Objectives of these rules:

The objectives of these rules are to ferret out pockets of infection in West Virginia, should they exist; and to take valid and scientific steps to prevent the disease from being imported into West Virginia.

These rules will fortify the buffer zone between West Virginia's swine and potentially infective imported swine. We presently have no restrictions on imported feeder pigs with respect to pseudorabies. Infected and/or exposed pigs could enter West Virginia undetected, because we presently do not require a pseudorabies test history of the herd or of the imports. These regulations will mimic the present import regulations of the adjoining states, such as, Virginia, Kentucky and Ohio. West Virginia cannot afford to become a vacuum and be flooded with swine, some of which, may be undesirable.

Positively, these regulations will make West Virginia's feeder pigs attractive to producers who finish swine. The swine will be free to move with a minimum of restraints. Severe losses to the swine producers, from this disease, will be avoided, to say nothing of the threat to the health of the cattle, dogs and cats.

West Virginia's wild animals would serve as vehicles for disease spread, should the disease gain a foothold in the State.

Again, the objectives can be stated in one, these rules are presented to protect the health of our animals.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

This program will be a small expense to state government. Surrounding states have or are planning to promulgate similar regulations. Should West Virginia fail to have regulations, it will become an area of invitation for swine that cannot legally go elsewhere - some of which will likely be diseased. Disease outbreaks can be costly. These regulations will have a positive impact on our economy.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

Prevention of this disease should enhance the possibilities of greater growth in West Virginia's swine industry. Swine will enjoy a greater freedom of movement. West Virginia depends upon selling its feeder pigs to areas with available supplies of grain. These regulations will be an added credential for our swine.

C. Economic Impact on Citizens/Public At Large.

West Virginia's swine will enjoy a greater freedom of movement in intrastate and interstate commerce. It will increase our role in providing a wholesome meat supply. Increased participation in commerce has many positive potential benefits. This disease is also a threat to the health of cattle, sheep, dogs and cats. It can be a threat to animals fed uncooked meat scraps of infected hogs.

Date:

5-30-89

Signature of Agency Head or Authorized Representative

*Clay Bennett*

WEST VIRGINIA LEGISLATIVE REGULATIONS  
STATE DEPARTMENT OF AGRICULTURE  
CHAPTER 19-9  
SERIES I

FILED  
1939 JUN -1 PM 2:31  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

TITLE: Animal Disease Control

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Section 6.16.2

6.16.2.1 Scope - This legislative regulation establishes specific operating rules, procedures and definitions for preventing, suppressing, controlling and eradicating pseudorabies in swine.

6.16.2.2 Authority West Virginia Code 19-9-2.

6.16.2.3 Filing Date -

6.16.2.4 Effective Date -

6.16.2.5 This regulation is an addition to the regulations for Animal Disease Control, Series I, Section 16, general limitations on swine importation.

Section 6.16.2.6 Additional Definitions

6.16.2.7 The following words, over and above the definitions in the law, shall unless the context otherwise requires a different meaning, have the following specifically prescribed meaning.

6.16.2.8 "Approved Laboratory" means a laboratory approved by the United States Department of Agriculture and the Commissioner of Agriculture to conduct official pseudorabies tests.

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

6.16.2.10 "Feeder Pig" means any immature swine used for or intended to be used exclusively for feeding for slaughter.

6.16.2.11 "Sow" means any female swine used for or intended to be used for breeding purposes.

6.16.2.12 "Pseudorabies" is an infectious and contagious disease of swine and certain other warm-blooded animals.

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

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

6.16.2.15 "Pseudorabies Monitored Herd" means a swine breeding herd that has been tested according to 4.4.

6.16.2.16 "Qualified Pseudorabies Negative Herd" means a swine herd that meets the provisions of 4.5.

6.16.2.17 "State Veterinarian" means a West Virginia Department of Agriculture veterinarian or his agent, employed by the commissioner of Agriculture to administer the Animal Health Programs, or this may also include an USDA employee approved by the Commissioner of Agriculture.

Section 6.16.2.18 All swine imported into West Virginia for purposes other than immediate slaughter shall be accompanied by an official health certificate indicating that they are free from any symptoms of any infectious or contagious disease and individually identified on the certificate, except that swine vaccinated for pseudorabies shall not be imported.

6.16.3 Purebred swine for breeding purposes shall in addition:

6.16.3.1 be tested for brucellosis and may be imported only if found negative in a dilution of 1.25 by tube test or negative to card test within 30 days prior to date of importation, although breeding swine originating from validated brucellosis free herds need not be tested 30 days prior to importation if the health certificate indicates the herd certificate number and date of the last herd test;

6.16.3.2 be tested and be negative by the serum neutralization (SN) test, or other acceptable test for pseudorabies, within 30 days prior to the date of importation, or certification that the swine originated from a qualified pseudorabies negative herd. The health certificate must show the herd certificate number and the date of the last test.

6.16.3.3 Pseudorabies Test Procedures

6.16.3.3.1 Blood samples collected for use in conducting an official test shall be done by an accredited veterinarian, or technicians approved by the commissioner, and the test shall be conducted at an approved laboratory or approved agents.

6.16.3.3.2 The accredited veterinarian or approved technician, shall record on a test chart an individual identification of each animal tested.

6.16.3.4 Identification of Swine:

6.16.3.4.1 All swine tested for pseudorabies shall be individually identified by eartag, tattoo, eartag recorded in a book of record of a purebred registry association or any other method approved by the commissioner or his agents.

6.16.3.4.2 Feeder pigs subject to this regulation shall be individually identified by a metal eartag or by any other method approved by the commissioner or his agents.

6.16.3.5 Pseudorabies Monitored Herd Procedures:

6.16.3.5.1 To achieve initial certification as a pseudorabies monitored herd, a swine breeding herd shall be tested and found to be negative for pseudorabies, with the testing to be of a representative sample of the herd, including all boars. The sample size shall be as follows:

6.16.3.5.1.1 In herds of ten sows or fewer, all sows shall be tested;

6.16.3.5.1.2 In herds of 11 to 35 sows, ten randomly-selected sows shall be tested; and

6.16.3.5.1.3 In herds of 36 sows or more, 30% of the sows or 30 randomly-selected sows, whichever is fewer, shall be tested.

6.16.3.5.2 To continue certification as a pseudorabies monitored herd, the initially certified swine breeding herd shall be recertified annually by utilizing the sample size found in 6.16.3.5.1. The sample for recertification shall include all boars and 30% of the sows added to the swine breeding herd since the last certification test. For continued certification, the swine must be tested every twelve months.

6.16.3.6 Qualified Pseudorabies Negative Herd Procedures:

6.16.3.6.1 Qualified pseudorabies negative herd status shall be attained by subjecting all swine over six months of age in the swine breeding herd to an official pseudorabies serologic test and finding all swine so tested to be negative. The herd must not have been infected within the past 30 days. A minimum of 90 percent of the swine in the herd must have been on the premises and part of the herd for at least 90 days prior to the qualifying official pseudorabies test or have entered directly from another qualified pseudorabies negative herd.

6.16.3.6.2 Qualified pseudorabies negative herd status shall be maintained by subjecting all swine over six months of age in the swine breeding herd to an official pseudorabies serologic test at least once each year. The test shall be accomplished by testing 25% of all swine over six months of age every 80-105 days and finding all swine so tested to be negative. No swine shall be tested twice in one year to comply with the 25% requirement; or

6.16.3.6.2.1 By testing 10 percent of the swine over six months of age each month and finding all swine so tested negative; no swine shall be tested twice in ten months to comply.

6.16.3.6.2.2 The qualifications for the establishment and maintenance of a qualified pseudorabies herd shall be governed by the provisions of 9 CFR 85.1. (Code of Federal Regulations)

6.16.3.7 Proof of Herd-Health Status:

6.16.3.7.1 Proof of herd-health status for pseudorabies shall be by one of the following methods:

Department of Agriculture  
Leg. Regs., 19-9  
SERIES 1, Sec.6

6.16.3.7.1.1 A current Swine Herd Health Card for Pseudorabies issued by the State Veterinarian or other proof, specified by the State Veterinarian, of being a pseudorabies negative herd; or

6.16.3.7.1.2 An official pseudorabies test chart identifying the individual feeder pigs offered in the transaction or shipment and indicating that they have been tested and found to be negative for pseudorabies within the past 30 days.

6.16.3.8 Intrastate Dealings in Feeder Pigs; Interstate Shipment:

6.16.3.8.1 Feeder pigs sold, lent, leased or traded in West Virginia; feeder pigs offered for sale, loan, lease, or trade in West Virginia; feeder pigs imported into West Virginia from other states; and feeder pigs exported from West Virginia into states that require testing for export shall:

6.16.3.8.1.1 Originate from a pseudorabies monitored herd; or

6.16.3.8.1.2 Originate from a qualified pseudorabies negative herd; or

6.16.3.8.1.3 Be individually tested and found negative for pseudorabies within 30 days prior to the shipment and within 30 days prior to the transaction.

6.16.3.9 REACTOR HERDS

6.16.3.9.1 When Pseudorabies Reactors are Found:

6.16.3.9.1.1 All swine shall be quarantined and can move only with Form VS 1-27 to slaughter establishments certified to receive such animals. All shipments must have prior permission from the Commissioner or his agents before being moved. A continuing effort must be made to eliminate the infection and removal of quarantine.

6.16.3.10 Removal of Quarantine:

6.16.3.10.1 The quarantine can be removed by depopulation of all reactor and exposed swine, followed by an approved method of cleaning and disinfecting as prescribed by a state veterinarian.

Department of Agriculture  
Leg. Regs., 19-9  
SERIES 1, Sec. 6

6.16.3.10.2 Removing all positive swine and cleaning and disinfecting the herd premises as prescribed by the state veterinarian. Subjecting all swine in the herd, except swine nursing from their mothers, to an official pseudorabies serologic test 30 days or more after removal of the positive swine and finding all swine so tested negative; and after an interval of 30 to 60 days after the first such negative official pseudorabies serologic herd test, subjecting all swine in the herd over 6 months of age to another official pseudorabies serologic test and finding all swine so tested to be negative.

6.16.3.10.3 The procedures for release of quarantine shall be governed by the provision of 9 CFR 85.1.