

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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REGISTRATION DIVISION

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: W.Va. Code 19-9-2

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

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

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 UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The regulation on importation of dogs and cats (Section 7) should be compatible with the newly passed law. When laws and regulations differ, confusion and distrust tend to germinate and grow. The immediate change should prevent misunderstandings.

The poultry regulations (Section 10) could potentially save the WV Dept. of Agriculture time and money should a disease outbreak occur. The adoption and enforcement will assist in detection of the disease should it be introduced into WV. The sooner detected, the sooner steps can be taken to eradicate and control its spread, thus providing additional insurance to the poultry industry.

Use Additional Sheets If Necessary.



WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE
Chapter 19-9
SERIES 1

TITLE: Animal Disease Control

Section 1. General

1.1 Scope - These legislative regulations establish general operating rules and procedures in the Animal Disease Control 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 -

1.4 Effective Date -

1.5 Amendment of former regulation in this legislative regulation amending the following: Animal Disease Control, Series 1, by amending Section 7 and by amending Section 10 by adding 10.11.

Section 2. Definitions

2.1 The following words, over and above the definitions in the law, shall, unless the context otherwise requires or a different meaning is specifically prescribed have the following meaning:

2.1.1 Accredited Veterinarian - Any veterinarian accredited by the Commissioner and APHIS.

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

2.1.3.1 To identify reactor animals by means of a chemical brand applied to the left cheek using the letter "B".

2.1.3.2 To attach a special tag in the left ear.

Dept. of Agri.
Leg. Regs., 19-9
SERIES 1, Sec. 7

7.1 All dogs and cats imported into the State of West Virginia, except for exhibition, or those staying thirty (30) days or less, shall be accompanied by a certificate of health stating that the animal is free from all infectious diseases and has not been exposed to such diseases; and, if a dog or a cat is over ~~five~~ six months of age, that it has been immunized against rabies not more than twelve (12) months prior to shipment. Dogs and cats under ~~5~~ 6 months of age are exempt from the rabies requirement.

Section 8. Game, Fur-bearing, Wild and Semi-wild, Domesticated Wild Animals, and Wild Birds

8.1 No person shall import into or have in his possession within this State for purposes of liberation, or liberate within this State, any live wildlife from without the State, except as authorized by a permit from the Director, West Virginia Department of Natural Resources, State Capitol Building, Charleston, West Virginia 25305.

8.2 Animals imported into West Virginia as zoo animals must have been examined by an accredited veterinarian within thirty (30) days prior to the date of entry and found free of disease and exposure thereto and must be accompanied by an approved interstate health certificate from the Animal Health official of the state of origin. A copy must be forwarded to the Director, Animal Health Division, State Department of Agriculture, State Capitol Building, Charleston, West Virginia 25305.

Section 9. Regulations for Hatcheries, Growers and Contractors Pertaining To Poultry Disease Control and Eradication

9.1 All hatcheries shall report weekly the total number of eggs set and the total number of chicks and poults hatched to the Federal-State Crop & Livestock Reporting Service, State Department of Agriculture, Capitol Building, Charleston, West Virginia 25305.

9.2 All dealers in baby chicks and broiler contractors shall report the number of shipments of chicks and poults into the State to the West Virginia Department of Agriculture, Capitol Building, Charleston, West Virginia 25305.

9.3 All hatcheries producing and offering for sale baby chicks and turkey poults shall have their breeder supply flocks officially blood tested annually for pullorum-typhoid, Mycoplasma gallisepticum, M. synoviae and M. meleagridis.

9.4 All chickens to be used as breeders must be tested when more than five months of age.

9.5 All turkeys to be used as breeders must be tested when more than four months of age.

- 10.10.5.1 Herd of origin is Certified Brucellosis Free.
- 10.10.5.2 Herd of origin has had two negative tests within 12 months at least 90 days apart and the last one at least 90 days prior to entry or shall originate from a herd that has had two negative milk ring tests during the last year but not less than 90 days prior to entry and test eligible animals entering must have a negative brucellosis test within 30 days.
- 10.10.5.3 Official vaccinates of beef breeds less than 24 months of age and official vaccinates of dairy breeds less than 20 months of age - no test required - but herd of origin must comply with 10.10.5.1 or 10.10.5.2.
- 10.10.5.4 Nursing calves may move on dam's test or status.
- 10.10.5.5 All cattle must be verifiable progeny of 10.10.5.1, 10.10.5.2 or 10.10.5.3 above.
- 10.10.5.6 Cattle consigned from Class B or Class C states need a prior permit obtained from the Animal Health Division

10.11 Health requirements for birds to be imported or exhibited at fairs, festivals or shows.

- 10.11.1 Birds to be exhibited at fairs, festivals or shows shall be apparently healthy and shall not originate from a flock known to be infected with pullorum/typhoid.
- 10.11.2 All birds exhibited at West Virginia fairs, festivals and shows shall be accompanied by:
 - 1) A statement by the owner signed on the day of the show stating that the birds have been free of disease for the past 30 days and did not originate from a flock known to be infected with pullorum/typhoid;
 - 2) A form 9-2 indicating that the birds have been tested within 30 days of the show, or;
 - 3) A Form 9-3 indicating that they have originated from a pullorum/typhoid clean flock, or;
 - 4) Submit to a pullorum/typhoid test at the place of exhibit performed by a state approved tester.

- 10.11.3 Qualified individuals approved by the Commissioner may perform the pullorum/typhoid test at fairs, festivals and shows.
- 10.11.4 The individual who performs the pullorum/typhoid test shall report to the Commissioner on forms provided by the Commissioner the results of these tests within seven (7) days of the testing.
- 10.11.5 If any bird submitted by an owner tests positive for pullorum/typhoid, all birds of that owner shall be denied entry into the show.
- 10.11.6 The fair management shall keep a record of all birds exhibited at their event. These records shall include the name and address of the exhibitor and the number of birds exhibited.
- 10.11.7 No bird will be allowed for exhibit from an area under quarantine for Avian Influenza or viscerotropic velogenic Newcastle disease (VVND).



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(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

September 24, 1987

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Department of Agriculture

RULE: Amendments to Series 1, Animal Disease Control

DATE FILED AS AN EMERGENCY RULE: August 13, 1987

DECISION NO. 23-87

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

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Sept 24, 1987
ADMINISTRATIVE LAW DIVISION

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STATE OF WEST VIRGINIA

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DECISION

Emergency Rule Decision (ERD 23-87)

AGENCY: Department of Agriculture
RULE: Amendments to Series 1; Animal Disease Control
DATE FILED AS AN EMERGENCY RULE: August 13, 1987

- par. 1 The Department of Agriculture has filed as an emergency amendments to the above Series 1.
- par. 2 West Virginia Code 29A-3-15A 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-3-15a(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 ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The Department of Agriculture has filed this emergency rule with supporting documents with the Secretary of State on August 13, 1987, and with the LRMRC on August 14, 1987.

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

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

§19-9-2. Duties and powers of commissioner.

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

(a) To prevent, suppress, control and eradicate any communicable diseases of animals or 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 of Agriculture 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.

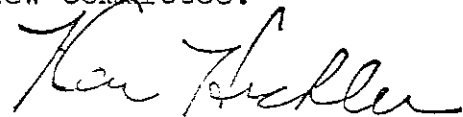
par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the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

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

The regulation on importation of dogs and cats (Section 7) should be compatible with the newly passed law. When laws and regulations differ, confusion and distrust tend to germinate and grow. The immediate change would prevent misunderstandings.

The poultry regulations (Section 10) could potentially save the WV Dept. of Agriculture time and money should a disease outbreak occur. The adoption and enforcement will assist in detection of the disease should it be introduced into WV. The sooner detected, the sooner steps can be taken to eradicate and control its spread, thus providing additional insurance to the poultry industry.

- par. 13 Prevention of animal disease is of interest to the public and the rules needed to insure against the substantial harm of any outbreak is justified.
- par. 14 It is the decision of the Secretary of State that this emergency rule be approved.
- par. 15 This decision shall be cited as Emergency Rule Decision 23-87 or ERD 23-87 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the Department of Agriculture, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE
FILED IN THE OFFICE OF
THE SECRETARY OF STATE

THIS DATE Sept 24, 1987
ADMINISTRATIVE LAW DIVISION

Entered _____