

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 26, 2010

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Department of Agriculture
Marketing and Development Division
1900 Kanawha Blvd., East
Charleston, WV 25305
304-558-2210

LEGISLATIVE RULE TITLE: West Virginia Apiary Law of 1991

1. Authorizing statute(s) citation 19-3-3

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 1, 2010 - Comment Period

b. What other notice, including advertising, did you give of the hearing?

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 1, 2010 Comment Period

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 26, 2010

- f. Name, title, address and **phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Jean Smith, Director

West Virginia Department of Agriculture
Marketing and Development Division

1900 Kanawha Blvd., East

Charleston, WV 25305

Office: 304-558-2210

Fax: 304-558-2270

JSmith@wvda.us

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

Summary of Rule
West Virginia Apiary Law of 1991
Title 61 – Series 2

The West Virginia Department of Agriculture proposes to implement Honey Bee Best Management Practices (HBBMP) as safety standards for the operation of apiaries as promulgated by legislative rule in accordance with Article Thirteen of West Virginia Code 19-3-4, Subsection (c).

Participation in this limited liability program is voluntary. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet if applicable due to the location of their apiaries.

Below is a summary of the changes:

§61-2-2. Definitions

- 2.1. "Africanized Honey Bee (AHB)" means hybrids of the African Honey Bee with various European honey bees and far more aggressive than the European subspecies.
- 2.2. "Apiarist and beekeeper" means a person keeping bees.
- 2.3. "Apiculture and beekeeping" means the management of beehives.
- 2.4. "Bee sting" means an injury sustained and inflicted by a worker honey bee.
- 2.5. "Beehive" means a removable framed housing for a honey bee colony.
- 2.6. "Caution sign" means a standardized sign with black print on yellow background for posting on or near an apiary as a precaution that honey bees are in the area.
- 2.7. "Flight path" means the distinct route taken by many bees leaving from or returning to their hive.
- 2.8. "Honey extraction" means the removal of honey from combs.
- 2.9. "Honey flow" means the gathering of nectar from flora by honey bees.
- 2.10. "Honeycomb" means removable frames, containing wax cells which house honey, pollen, and/or brood (eggs, larvae, pupae).

2.11. "Pollination" means the transfer of pollen by honey bees from anthers to stigmas of flowers for the purpose of plant fertilization.

2.12. "Queen" means an adult, mated female that lives in a honey bee colony or hive.

2.13. "Robbing" means bees attempting to access honey stored or spilled in another hive.

2.14. "Staging area" means a collection site for holding colonies prior to shipment.

2.15. "Swarm" means cluster or flying mass of Honey Bees including workers, queen, and drones.

2.16. "Undeveloped property" means any idle land that has no structures or facilities intended for human use or occupancy. Property used exclusively for streets, highways, or commercial agriculture is to be considered undeveloped property for the purpose of the West Virginia Honey Bee Best Management Practices (HBBMP).

2.17. "Water Supply" means any available source bees could use for water such as, but not limited to, water taps, hoses, pools, hot tubs, streams, ponds, puddles, etc.

§61-2-4. Limits on Liability.

4.1. A beekeeper will obtain limits on liability who:

4.1.a. Signs a Honey Bee Best Management Practices compliance agreement to be kept on file at West Virginia Department of Agriculture headquarters.

4.1.b. Voluntarily conforms with Honey Bee Best Management Practices contained in section 4.2 of these rules.

4.2 West Virginia Honey Bee Best Management Practices (HBBMP):

4.2.a. West Virginia Beekeepers shall post a honey bee caution sign in or near the apiary.

4.2.b. West Virginia Beekeepers will limit the number of hives in relation to property lot size in accordance with the following:

4.2.b.(1) Less than 1/2 acre - 4 colonies (1/2 acre = 21,780 sq. ft., roughly 100 ft. x 218 ft.)

4.2.b.(2) More than 1/2 acre, less than 1 acre - 6 colonies (1 acre = 43,560 sq. ft., roughly 150 ft. x 290 ft.)

4.2.b.(3) 1 acre or more - 8 colonies (1 acre = 43,560 sq. ft., roughly 150 ft. x 290 ft.)

4.2.b.(4) Regardless of lot size: If all hives are situated at least 200 feet in any direction from all property lines of the lot on which the apiary is situated, or as long as all adjoining property that falls within a 200-foot radius of any hive is undeveloped property, there will be no limit on the number of hives.

4.2.c. Hive entrances shall face away from neighboring property and in such a direction that bees fly across the beekeeper's property a sufficient distance to gain a height of six feet. If bordering property is within a distance of 50 feet, the use of barriers (hedges, shrubs or fencing six feet high) shall be employed to redirect the bees' flight pathway and establish bee flight pathways above head height.

4.2.d. West Virginia Beekeepers shall maintain a water source near the colonies at a distance less than the nearest unnatural water supply.

4.2.e. No apiary shall be kept within 50 feet of an established animal that is tethered, kennelled or otherwise prevented from escaping a stinging incident.

4.2.f. West Virginia Beekeepers shall avoid opening colonies for inspection or manipulation when neighbors are present or in the immediate vicinity.

4.2.g. It is strongly encouraged for West Virginia Beekeepers to avoid purchasing queens and honey bees from areas that are documented as having been designated as an established Africanized Honey Bee (AHB) zone.

4.2.h. West Virginia Beekeepers shall manage all colonies to minimize swarming.

4.2.i. West Virginia Beekeepers shall replace queens in colonies exhibiting defensive behaviour that may be injurious to the general public or domesticated animals as determined by West Virginia Department of Agriculture apiary staff.

4.2.j. A collection site for holding colonies prior to shipment, or staging area, shall have undeveloped property surrounded by a natural barrier and shall be marked with a honey bee caution sign.

4.2.k. Anyone transporting colonies shall secure the load and screen entrances or place a net over the colonies to prevent bees from escaping.

4.2.l. West Virginia Beekeepers shall properly discard all pesticides and other control agents after use according to label directions.

4.2.m. Honey Bees used for public demonstrations, entertainment or educational purposes shall be enclosed so as to avoid release of honey bees to the public.

4.2.n. In the event that Africanized Honey Bee (AHB) infestation is determined to be established in West Virginia by the West Virginia Department of Agriculture, additional rules promulgated by the Commissioner of Agriculture will be followed.



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Steve Hannah
Deputy

Commissioner

STATEMENT OF FACTS AND CIRCUMSTANCES

ARTICLE 13. INSPECTION AND PROTECTION OF AGRICULTURE Registration of bees; identification of apiaries; limitation on liability. Title 61 – Series 2

The West Virginia Department of Agriculture proposes to implement Honey Bee Best Management Practices (HBBMP) as safety standards for the operation of apiaries as promulgated by legislative rules in accordance with article thirteen of W.Va. Code §19-3-4, subsection (c).

Best Management Practices have been developed through consultations with West Virginia Department of Agriculture Apiary Inspectors and review of the following sources: *Model Beekeeping Ordinance for Louisiana Local and Municipal Governments*; *Best Management Practices for Maintaining European Honey Bee Colonies* by the Florida Department of Agriculture; *Best Management Practices for Beekeeping* by the Maine State Beekeepers Association, Inc.; and *Helpful Hints for WV Beekeepers* by the West Virginia Beekeepers Association.

As enacted by the Legislature of West Virginia on March 13, 2010, and in effect from passage, §19-3-4 of the Code of West Virginia, was amended and reenacted relating to limiting the liability of apiary owners and operators; requiring the Department of Agriculture to promulgate best practices rules; and authorizing emergency rule making power.

Under the proposed West Virginia Apiary Rule, Honey Bee Best Management Practices establish general operating guidelines to ensure a higher beekeeper safety standard. Through proposed standards for number and placement of hives and procedural standards for avoidance of Africanized Honey Bee infestation, the risk of potentially harmful stinging incidents to the general public will be reduced. West Virginia beekeepers will sign an agreement that they voluntarily agree to follow these Best Management Practices in order to receive a limitation of liability as amended and enacted in article thirteen of W.Va. Code §19-3-4, subsection (c).

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia Apiary Law of 1991

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Blvd. E.
Charleston, WV 25305

Phone Number: 304-558-2210 Email: jsmith@ag.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There are no changes in fees involved with this rule.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	N/A	N/A	N/A
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

West Virginia Apiary Law of 1991

Rule Title: _____

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

N/A

Date: _____

4/1/90

Signature of Agency Head or Authorized Representative

Geo R. Daylan

TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE

SERIES 2
WEST VIRGINIA APIARY LAW OF 1991 RULE

FILED
2010 JUL 26 PM 3:21
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§61-2-1. General.

1.1. Scope. -- These legislative rules establish general operating rules and procedures for the inspection of apiaries, ~~and control of bee diseases,~~ and limitation of liability for beekeepers.

1.2. Authority. -- W. Va. Code §19-13-3.

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

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

§61-2-2. Definitions

2.1. "Africanized Honey Bee (AHB)" means hybrids of the African Honey Bee with various European honey bees and far more aggressive than the European subspecies.

2.2. "Apiarist and beekeeper" means a person keeping bees.

2.3. "Apiculture and beekeeping" means the management of beehives.

2.4. "Bee sting" means an injury sustained and inflicted by a worker honey bee.

2.5. "Beehive" means a removable framed housing for a honey bee colony.

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2.14. "Staging area" means a collection site for holding colonies prior to shipment.

2.15. "Swarm" means cluster or flying mass of Honey Bees including workers, queen, and drones.

2.16. "Undeveloped property" means any idle land that has no structures or facilities intended for human use or occupancy. Property used exclusively for streets, highways, or commercial agriculture is to be considered undeveloped property for the purpose of the West Virginia Honey Bee Best Management Practices (HBBMP).

2.17. "Water Supply" means any available source bees could use for water such as, but not limited to, water taps, hoses, pools, hot tubs, streams, ponds, puddles, etc.

~~§61-2-2.~~ §61-2-3. Registration of Bees; Identification Of Apiaries.

~~2.1.~~ 3.1. The commissioner shall furnish an application for registration of bees to all persons known to keep bees. The commissioner shall mail the applications during the month of December to all persons who have registered their bees during the previous year.

~~2.2.~~ 3.2. Upon receipt of a properly executed bee registration application, the commissioner shall issue a certificate of registration which will be based upon the information provided on the application. The certificate is valid until December 31 of the year issued.

~~2.3.~~ 3.3. Any person who plans to import bees for the express purpose of pollination service, honey production or permanent location shall request a permit for entry from the commissioner at least ten (10) days prior to the arrival of the bees. A valid certificate of inspection from the state of origin identifying any bee diseases that are affecting the bees and the extent of any such bee diseases, if any, must accompany the request.

~~2.3-a.~~ 3.3.a. Any person who plans to import vacant used bee equipment into the state shall request a permit for entry from the commissioner at least ten (10) days prior to the arrival of the bee equipment. A valid certificate of inspection from the state of origin identifying any bee disease(s) in the bees that were in the equipment, and stating the treatment that has been made, if any, to the vacated equipment shall accompany the request.

~~2.4.~~ 3.4. Any person who keeps bees and who has registered them is required to report to the commissioner additional colonies obtained as packaged bees and any honey bee queens imported from any state, province or territory within 10 days of acquisition.

~~2.4-a.~~ 3.4.a. Any person who keeps bees and who has registered his bees who obtains additional colonies from capturing swarms, colony divisions or any other source from within this state, shall report the additional colonies to the commissioner during the designated annual registration period.

~~2.5.~~ 3.5. The commissioner shall give an educational bee registration exemption to any person keeping bees for the express purpose of conducting educational beekeeping projects, classes or programs which are under the direction of a governmental entity or a recognized educational organization such as the 4-H, the Future Farmers of America, or educational promotions sponsored by state or local beekeeping associations. At the conclusion of the educational project or participation in the program any person who keeps bees must register their bees as provided by W. Va. Code §19-13-1 et seq. and by these rules.

~~2.5-a.~~ 3.5.a. Bees being kept under an educational bee registration exemption are not exempt, however, from the treatment provisions of the W. Va. Code §19-13-1 et seq. and section 5 of these rules when a

transmissible bee disease is identified in the environs of the bees being kept under such exemption.

S61-2-4. Limits on Liability.

4.1. A beekeeper will obtain limits on liability who:

4.1.a. Signs a Honey Bee Best Management Practices compliance agreement to be kept on file at West Virginia Department of Agriculture headquarters.

4.1.b. Voluntarily conforms with Honey Bee Best Management Practices contained in section 4.2. of these rules.

4.2. West Virginia Honey Bee Best Management Practices (HBBMP):

4.2.a. West Virginia Beekeepers shall post a honey bee caution sign in or near the apiary.

4.2.b. West Virginia Beekeepers will limit the number of hives in relation to property lot size in accordance with the following:

4.2.b.(1) Less than 1/2 acre - 4 colonies (1/2 acre = 21,780 sq. ft., roughly 100 ft. x 218 ft.)

4.2.b.(2) More than 1/2 acre, less than 1 acre - 6 colonies (1 acre = 43,560 sq. ft., roughly 150 ft. x 290 ft.)

4.2.b.(3) 1 acre or more - 8 colonies (1 acre = 43,560 sq. ft., roughly 150 ft. x 290 ft.)

4.2.b.(4) Regardless of lot size: If all hives are situated at least 200 feet in any direction from all property lines of the lot on which the apiary is situated, or as long as all adjoining property that falls within a 200-foot radius of any hive is undeveloped property, there will be no limit on the number of hives.

4.2.c. Hive entrances shall face away from neighboring property and in such a direction that bees fly across the beekeeper's property a sufficient distance to gain a height of six feet. If bordering property is within a distance of 50 feet, the use of barriers (hedges, shrubs or fencing six feet high) shall be employed to redirect the bees' flight pathway and establish bee flight pathways above head height.

4.2.d. West Virginia Beekeepers shall maintain a water source near the colonies at a distance less than the nearest unnatural water supply.

4.2.e. No apiary shall be kept within 50 feet of an established animal that is tethered, kennelled or otherwise prevented from escaping a stinging incident.

4.2.f. West Virginia Beekeepers shall avoid opening colonies for inspection or manipulation when neighbors are present or in the immediate vicinity.

4.2.g. It is strongly encouraged for West Virginia Beekeepers to avoid purchasing queens and honey bees from areas that are documented as having been designated as an established Africanized Honey Bee (AHB) zone.

4.2.h. West Virginia Beekeepers shall manage all colonies to minimize swarming.

4.2.i. West Virginia Beekeepers shall replace queens in colonies exhibiting defensive behaviour that may be injurious to the general public or domesticated animals as determined by West Virginia Department of Agriculture apiary staff.

4.2.j. A collection site for holding colonies prior to shipment, or staging area, shall have undeveloped property surrounded by a natural barrier and shall be marked with a honey bee caution sign.

4.2.k. Anyone transporting colonies shall secure the load and screen entrances or place a net over the colonies to prevent bees from escaping.

4.2.l. West Virginia Beekeepers shall properly discard all pesticides and other control agents after use according to label directions.

4.2.m. Honey Bees used for public demonstrations, entertainment or educational purposes shall be enclosed so as to avoid release of honey bees to the public.

4.2.n. In the event that Africanized Honey Bee (AHB) infestation is determined to be established in West Virginia by the West Virginia Department of Agriculture, additional rules promulgated by the Commissioner of Agriculture will be followed.

~~§61-2-3-~~ §61-2-5. Right Of Entry; Apiary Inspections; Quarantines.

~~3-1-~~ 5.1. An inspector shall inspect a colony of bees by removing three (3) or more frames containing developing brood from the hive and examining both sides for evidence of bee disease.

~~3-2-~~ 5.2. No person shall keep or maintain bees in any hive or receptacle which does not permit the thorough examination of the brood combs.

~~3-2-a-~~ 5.2.a. Whenever and wherever an inspector finds that the inspection of bees is impossible due to the keeping of bees in hives or other receptacles not equipped to permit the examination of brood combs, the inspector shall inform the beekeeper in writing of the condition, provided that no transmissible bee disease is found in the environs of the hives or other receptacles. The beekeeper has twelve (12) months from the initial date of notification to correct the condition. Whenever or wherever these conditions are not corrected within 12 months from the date of notification of the beekeeper, the commissioner shall quarantine the colonies until such time as the condition is corrected.

~~3-2-b-~~ 5.2.b. If a transmissible bee disease is confirmed (by laboratory analysis in the Department's laboratory or by the United States Department of Agriculture - Agricultural Research Service) in the environs of an apiary equipped with hives or receptacles which do not permit the thorough examination of the brood combs, the colonies contained in the hives or receptacles shall be considered affected with the confirmed bee disease(s) and shall be destroyed and/or sterilized as the situation warrants. In order to protect the beekeeping industry, the commissioner shall require immediate destruction or sterilization of such hives or receptacles.

~~3-3-~~ 5.3. After inspecting or handling any disease infected bee equipment and/or appliances, and before proceeding to any other apiary, the inspector and every assistant, whether a beekeeper or inspector, shall thoroughly disinfect and/or de-contaminate every portion of their person and clothing, and any appliances that may have been in contact with infected materials.

~~3-4-~~ 5.4. The commissioner shall quarantine all apiaries that are confirmed by laboratory analysis (in the Department's laboratory or by the United States Department of Agriculture - Agricultural Research Service) as infected with a transmissible bee disease. The inspector will submit to the apiary owner, or person in charge of the apiary, a written document stating the nature of the disease and a statement whether the disease may be successfully treated or not. In addition, the inspector will include in the document recommendations for treatment, if any, and a statement of policy. Upon receipt of the documents, the apiary owner, or person in charge, will, by signed agreement, willingly acknowledge and accept full responsibility for compliance with the quarantine and the treatment. The apiary owner shall treat, or cause to treat the quarantined colonies as soon as possible, but no later than fourteen days from the notification.

~~3-4.a.~~ 5.4.a. If the incidence of the bee disease is such that, in the judgment of the inspector, chemical control treatment may be successful, the apiary owner shall treat the affected colonies, as prescribed by the inspector.

~~3-4.b.~~ 5.4.b. If the incidence of the bee disease is such that, in the judgment of the inspector, no treatment may be successful, as in the case of infection with American foulbrood, then the inspector shall notify the apiary owner that the affected colonies must be destroyed and related equipment sterilized. The inspector shall be present during the destruction of the colonies and sterilization of the bee equipment.

~~3-5.~~ 5.5. In cases involving vacant bee equipment that may have been directly or indirectly exposed to contagious bee disease, the equipment shall undergo sterilization by the commissioner or by the apiary owner by any appropriate method specified by the inspector.

~~3-6.~~ 5.6. The commissioner will not quarantine any colonies confirmed infected with any non-transmissible parasitic infestation or bee disease. The apiary owner shall, however, be encouraged to treat the colonies according to the written specifications provided by the inspector.

~~3-7.~~ 5.7. The commissioner shall not bring additional regulatory action against any apiary owner who is complying or attempting to comply with the terms of quarantine.

~~3-8.~~ 5.8. If the commissioner finds that any colony of bees that is under quarantine needs to be sterilized, due to the owner violating the terms of the quarantine, or for any other reason, then the commissioner will charge the apiary owner a fee of \$2.30 for each hive sterilized. The commissioner shall charge the fee to recover the costs for the sterilization.

~~3-9.~~ 5.9. The commissioner shall review any violation of a quarantine and, depending upon the severity of the violation, shall assess other penalties as provided by W. Va. Code '19-13-1 et seq.



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

July 26, 2010

Bob Tabb
Deputy Commissioner

Ms. Lela s. Bonner
893 Stones Lane
Reedsville, WV 26549

Dear Ms. Bonner,

Thank you for your letter regarding Title 61 Legislative Rue, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet if applicable due to the location of their apiaries.

Additional signage required via the immunity rule will be provided the first time by the West Virginia Department of Agriculture.

All comments concerning the location of hives, distances from roadways, water sources etc will be taken under advisement.

I am pleased that West Virginia is the first state in the United States to offer the limited liability protection and am equally pleased that our state is receiving many positive comments concerning our efforts.

Again, thank you for your comments.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Jean F. Smith".

Jean F Smith
Director, Marketing and Development



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

NOTICE OF 30 DAY PUBLIC COMMENT PERIOD

INSPECTION AND PROTECTION OF AGRICULTURE
Registration of bees; identification of apiaries; limitation on liability
TITLE 61 – SERIES 2

The West Virginia Department of Agriculture filed proposed changes to the above rule with the Secretary of State's Office and has established a 30 day public comment period ending July 1, 2010 at 4 p.m.

Please review the attached rule and send your comments prior to the above date.

Submit written comments to Jeanie Smith at the West Virginia Department of Agriculture, Marketing & Development Division, 1900 Kanawha Blvd., East, Charleston, WV 25305.

Lela S. Bonner
893 Stones Lane
Reedsville WV 26547.

I had 2 "excellent" Colonies of Bees, but lost both, due to extended cold weather, and excess of snow. No bees left the hives, but could have smothered or starved. I could not take usual care due to snow. Replacement is possible but clean-up not completed yet. Suggestions welcome!



State of West Virginia
DEPARTMENT OF AGRICULTURE

Gus R. Douglass, Commissioner

July 26, 2010

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

Mr. Denzil G. Taylor
512 Blue Spruce Road
Summersville, WV 26651

Dear Mr. Taylor,

Thank you for your letter regarding Title 61 Legislative Rue, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet if applicable due to the location of their apiaries.

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Again, thank you for your comments.

Sincerely Yours,

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Jean F Smith
Director, Marketing and Development



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

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NOTICE OF 30 DAY PUBLIC COMMENT PERIOD

INSPECTION AND PROTECTION OF AGRICULTURE
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Submit written comments to Jeanie Smith at the West Virginia Department of Agriculture, Marketing & Development Division, 1900 Kanawha Blvd., East, Charleston, WV 25305.

To whom it may concern:
I feel the new Ruling is not necessary.
I would prefer to leave it as it was.
I enjoy my hobby of bee keeping, and I feel
my privileges are taken away from me.

Denzil G. Taylor
512 Blue spruce Rd.
Summersville, WV 26651



State of West Virginia
DEPARTMENT OF AGRICULTURE

Gus R. Douglass, Commissioner

July 26, 2010

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

Mr. David H. Taylor
PO Box 238
Lizemores, WV 25125

Dear Mr. Taylor,

Thank you for your letter regarding Title 61 Legislative Rue, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

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Jean F Smith
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NOTICE OF 30 DAY PUBLIC COMMENT PERIOD

**INSPECTION AND PROTECTION OF AGRICULTURE
Registration of bees; identification of apiaries; limitation on liability
TITLE 61 – SERIES 2**

The West Virginia Department of Agriculture filed proposed changes to the above rule with the Secretary of State's Office and has established a 30 day public comment period ending July 1, 2010 at 4 p.m.

Please review the attached rule and send your comments prior to the above date.

Submit written comments to Jeanie Smith at the West Virginia Department of Agriculture, Marketing & Development Division, 1900 Kanawha Blvd., East, Charleston, WV 25305.

To Whom It May Concern:

I feel these new rules are not necessary. I would prefer to leave things as they are. I enjoy my hobby of beekeeping, but I feel like my privileges are being taken from me.

David H. Taylor
P.O. Box 238
LIZEMORE, WV 25128



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

July 26, 2010

Bob Tabb
Deputy Commissioner

Ms. Marsha Peterson
Ms. Donna Reeves
765 Grade Road
Falling Waters, WV 25419

Dear Ms Peterson and Ms. Reeves,

Thank you for your letter regarding Title 61 Legislative Rue, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet if applicable due to the location of their apiaries.

Additional signage required via the immunity rule will be provided the first time by the West Virginia Department of Agriculture.

All comments concerning the location of hives, distances from roadways, water sources etc will be taken under advisement.

I am pleased that West Virginia is the first state in the United States to offer the limited liability protection and am equally pleased that our state is receiving many positive comments concerning our efforts.

Again, thank you for your comments.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Jean F Smith".

Jean F Smith
Director, Marketing and Development

BEE-BERRY HILL

BEE RANCH AND BERRY FARM

765 Grade Rd., Falling Waters, WV 25419
(304) 274-0688
bee-berryhill@hotmail.com

June 25, 2010

Ms. Jeanie Smith
WV Dept. of Agriculture
Marketing & Development Division
1900 Kanawha Blvd. East
Charleston WV 25305

Dear Ms. Smith,

In regard to the INSPECTION AND PROTECTION OF AGRICULTURE RULES TITLE 61 SERIES 2; we have disagreements with the property regulations under the best practices section.

4.2.b (1,2 & 3) These three acreage requirements are so confusing that we cannot determine how many colonies are permitted per acre. It sounds like multiple acres can only have a total of 8 colonies. How much land bee colonies need really depends on the vegetation and terrain. Bees fly for a couple miles, so what's available for food in the neighborhood is more important than how many hives are in somebody's backyard.

4.2.b (4) The 200 foot limit is unnecessary and unrealistic. For example, our neighbor's cornfield could be subdivided when the recession ends. Since our property is less than 200 feet wide where the colonies are located, this 200-foot rule could put us out of business.

4.2.c The 50 feet distance requirement is unreasonable and needs to only be 15 feet, as bees fly up immediately when leaving the hive.

4.2.f The term "present or are in the immediate vicinity" needs to be defined more specifically. A 30-foot radius is realistic.

These property size regulations are unnecessary and seem designed specifically to protect large commercial beekeepers from competition by smaller beekeeping operations.

The majority of beehives in this country are kept by backyard hobbyists. In an area like the Eastern Panhandle where honeybees and other pollinator populations are threatened by development, regulations should protect the beekeepers rather than burden them unnecessarily.

We have spent a lot of money and time developing our honey business and have plans for expansion. These property restrictions leave us with the sinking feeling that it has all been for nothing.

The tone of these regulations seems to come from confusing yellow jackets with honeybees. Yellow jackets show up at picnics, make nests in the ground, and sting aggressively - not honeybees.

It is critically important for everyone in every part of this state to help honeybees.

MARSHA PETERSON

Marsha Peterson

Donna Reeves

Donna Reeves



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

July 26, 2010

Mr. Charles H Anott
107 Travelers Lane
Beckley, WV 25801

Dear Mr. Anott,

Thank you for your letter regarding Title 61 Legislative Rule, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet if applicable due to the location of their apiaries.

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Again, thank you for your comments.

Sincerely Yours,

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Jean F Smith
Director, Marketing and Development



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

NOTICE OF 30 DAY PUBLIC COMMENT PERIOD

INSPECTION AND PROTECTION OF AGRICULTURE
Registration of bees; identification of apiaries; limitation on liability
TITLE 61 – SERIES 2

The West Virginia Department of Agriculture filed proposed changes to the above rule with the Secretary of State's Office and has established a 30 day public comment period ending July 1, 2010 at 4 p.m.

Please review the attached rule and send your comments prior to the above date.

Submit written comments to Jeanie Smith at the West Virginia Department of Agriculture, Marketing & Development Division, 1900 Kanawha Blvd., East, Charleston, WV 25305.

Dear Sirs:

June 23, 2010

I most strenuously object to
the approval of all these rules

Charles H Amott
107 Travelers Lan.
Beckley WV
25801



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Dougiass, Commissioner

Janet L. Fisher
Deputy Commissioner

July 26, 2010

Bob Tabb
Deputy Commissioner

Mr. John Carpenter
257 Laurel Fork Road
Webster Springs, WV 26288-8476

Dear Mr. Carpenter,

Thank you for your letter regarding Title 61 Legislative Rue, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet if applicable due to the location of their apiaries.

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Again, thank you for your comments.

Sincerely Yours,

Jean F Smith
Director, Marketing and Development



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Bob Tabb
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NOTICE OF 30 DAY PUBLIC COMMENT PERIOD

INSPECTION AND PROTECTION OF AGRICULTURE
Registration of bees; identification of apiaries; limitation on liability
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Submit written comments to Jeanie Smith at the West Virginia Department of Agriculture, Marketing & Development Division, 1900 Kanawha Blvd., East, Charleston, WV 25305.

In Regards to the new Rules about Bees it seems that it is going to Be Harder for Bee Keepers to have Bees some Rules may Be all Right, and some may not Be.

*In Behalf of the Caution Sign, Can you furnish them, or where Can they Be got?
Caution Sign Bees in the area.*

*John Carpenter
257 Laurel fork Rd
Webster Springs WV 26288-8476*



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

July 26, 2010

Mr. John Pruitt
1122 Blue Knob Lane
Maysel, WV 25133

Dear Mr. Pruitt,

Thank you for your letter regarding Title 61 Legislative Rue, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet if applicable due to the location of their apiaries.

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I am pleased that West Virginia is the first state in the United States to offer the limited liability protection and am equally pleased that our state is receiving many positive comments concerning our efforts.

Again, thank you for your comments.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Jean F. Smith".

Jean F Smith
Director, Marketing and Development

Wednesday, June 23, 2010

Jeanie Smith
West Virginia Dept. Of Agriculture
Marketing & Development Division

Dear Ms. Smith:

This letter is in regards to the INSPECTION AND PROTECTION OF AGRICULTURE, Registration of bees; identification of apiaries; limitation on liability TITLE 61-SERIES 2 document sent to me last week. I was asked to submit a written comment concerning the content of the TITLE.

I find sections 61-2-3 (3.4,3.4.a and 3.5) and 61-2-4 (4.1.a - 4.2.i) to be too restrictive and invasive for beekeepers. I feel that these item will discourage some from keeping bees and others hesitant about registering with the State. It is my opinion that we should encourage beekeeping and not discourage it.

Thanks you so much for allowing others and myself to participate in the process.

John Pruitt
President, Clay County Beekeepers Assoc.
1122 Blue Knob Rd.
Maysel, WV 25133



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

July 26, 2010

Mr. Vernon W. Kerns
1440 Tanner Fork Road
Shock, WV 26638

Dear Mr. Kerns:

Thank you for your letter regarding Title 61 Legislative Rule, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet, if applicable, due to the location of their apiaries.

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I am pleased that West Virginia is the first state in the United States to offer the limited liability protection and am equally pleased that our state is receiving many positive comments concerning our efforts.

Again, thank you for your comments.

Sincerely,

A handwritten signature in cursive script that reads "Jean Smith".

Jean Smith
Director, Marketing and Development

1440 Tanner Fork Road
Shock, WV 26638
June 18, 2010

Ms. Jeanie Smith
WV Department of Agriculture
Marketing & Development Division
1900 Kanawha Blvd., East
Charleston, WV 25305

RE: INSPECTION AND PROTECTION OF AGRICULTURE
Registration of bees; identification of apiaries; limitation on liability

Dear Ms. Smith,

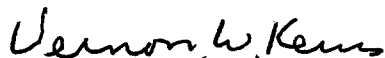
After reading the proposed changes to the above mentioned rule, my thoughts on **TITLE 61 – SERIES 2** are as follows.

I disagree with **4.2.a.** which states that I am **required** to post a honey bee caution sign in my apiary. I could post a 20 ft. X 20 ft. sign and no one would see it. My bees are sufficiently isolated so that no one is in danger from them. They are on 150 acres. They are away from the highway. No one traveling the highway (a country road) can see them or know they exist. My property is posted and gates locked so no one has access my bees, except me or someone accompanied by me. **Is it possible that the wording of 4.2.a. might be, "West Virginia Beekeepers shall post a honey bee caution sign in or near the apiary which is located in or near a populated area. Apiaries located in isolated rural areas are exempt from the requirement of a posted caution sign."?**

One additional comment: I am trying to develop bees which are more adapted to the current environment thereby reducing the need to medicate. It is my feeling that there is a possibility that medicating may cause the mites and diseases to be resistant to the medications, while making the bees more dependant on medicines. For this reason, it is my hope that governmental agencies and/or lawmakers do not enact rules/laws which will try to force bee keepers to medicate their bees.

In conclusion, I realize that the posting of a sign may be very much needed in a populated area, but, I also feel that the beekeeper in a rural, isolated area should be extended the courtesy of choosing whether or not he will post a caution sign which will be seen only by a few select persons.

Sincerely,



Vernon W. Kerns



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

July 26, 2010

Mr. Roland K. Walls
119 Teel Road
Beckley, WV 25801

Dear Mr. Kerns:

Thank you for your letter regarding Title 61 Legislative Rule, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet, if applicable, due to the location of their apiaries.

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I am pleased that West Virginia is the first state in the United States to offer the limited liability protection and am equally pleased that our state is receiving many positive comments concerning our efforts.

Again, thank you for your comments.

Sincerely,

Jean Smith
Director, Marketing and Development

117 1001 2001
Beckley, WV 25801
June 17, 2010

Jeanie Smith

West Virginia Dept. of Agriculture
Marketing & Development Division
1900 Kanawha Blvd., East
Charleston, WV 25305

Subject: Title 61-Series 2

Dear Ms. Smith,

In response to your 30 day comment period (public) re. the subject Title 61-Series 2 proposed changes, please consider:

To the extent the state can curb the proliferation of bees carrying Africanized genes and curb the spread of bee diseases without being so rigorous and stringent as to force many beekeepers to have to give up, GOOD!

I fear that some of the proposed regulations are too regressive and prohibitive, viz:

4.2b Limits on liability: Why not permit a Grandfather provision where there has never been a problem. (With a few added nuc spawn queen hives, etc. - essential nowadays) - limits may be technically exceeded at times. I've kept bees here 60 years. (Never a complaint)!

4.2e. Again, Grandfather. For example, suppose a spiteful neighbor, with ample space, deliberately kennels a dog next to a long established apiary - already at the most acceptable spot - just to force movement - or cessation - or even, (purely hypothetical)

4.2h Managing colonies to minimize swarming. Besides providing space early, there are many reasons why, during swarming season, not all the best preventative measures can be employed. As desired, at times.

At the age of 75, I'm hoping to continue my life long hobby until death.??

Sincerely,
Roland K. Waco.



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

July 26, 2010

Webster County Bee Keepers Association
1125 Elk River Road
Webster Springs, WV 26288

Dear Members of the Webster County Beekeepers Club,

Thank you for your letter regarding Title 61 Legislative Rue, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet if applicable due to the location of their apiaries.

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Again, thank you for your comments.

Sincerely Yours,

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Jean F Smith
Director, Marketing and Development

RECEIVED

JUL 19 2010

Webster County Bee Keepers Association
1125 Elk River Rd.
Webster Springs, WV 26288

July 16, 2010

Dear Jeanie Smith,

The Webster County Bee Keepers Association would like to express our opposition to Title 61 Series 2 regarding inspection and limitation on liability of apiaries. We are unanimous in our opinion that this rule is detrimental to bee keepers and our ability to raise bees.

Why should a bee keeper be required to obtain a permit to import bees (sec. 3.3)? What are the "Limits on liability" referred to in section 4.1? Many of the Best Management Practices in section 4.2 are impractical to comply with.

We feel that much of this rule imposes more hardships and undue burdens on bee keepers in West Virginia, at a time when the State should be reaching out to assist practitioners of this important form of agriculture.

We are also aware that this letter is reaching you after the official 30 day comment period, but we would like to have our voices heard despite this, considering that the letter was not received until June 16th (see copy of post marked envelope) thereby not giving us a full 30 days to comment. Thank you.

Sincerely,

Jason Raschka

Jane Barbe

Bradley Bradley

David Brown

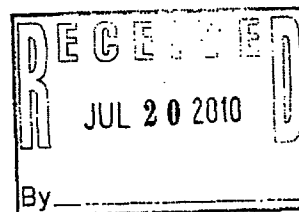
Earl Ben. Jr

Julia Stout

Roger Stout

Sampson Knight

Webster County Bee Keepers Association
1125 Elk River Rd.
Webster Springs, WV 26288



July 16, 2010

Honorable Governor Manchin,

The Webster County Bee Keepers Association would like to express our opposition to Title 61 Series 2 regarding inspection and limitation on liability of apiaries. We are unanimous in our opinion that this rule is detrimental to bee keepers and our ability to raise bees.

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Sincerely,

Jason Rauchka
Jane Barber
Bradley Bradley
David Brown
Earl Ben. Jr
Julia Stout
Roger Stout
Sampson Knight



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

July 26, 2010

Bob Tabb
Deputy Commissioner

Ms. Janvier Ott
107 Towhee Lane
Washington, WV 26181

Dear Ms. Ott,

Thank you for your letter regarding Title 61 Legislative Rue, West Virginia Department of Agriculture Series 2 West Virginia Apiary Rule. I certainly appreciate your time and efforts put forth in providing your comments.

Participation in this limited liability program is VOLUNTARY. Any registered West Virginia Beekeeper who does not wish to receive the additional limited liability is not required to do so. For those beekeepers, their operation will continue as it is. Those beekeepers that elect to participate will have additional guidelines to meet if applicable due to the location of their apiaries.

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Again, thank you for your comments.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Jean F. Smith".

Jean F Smith
Director, Marketing and Development

Janvier M. Ott
107 Towhee Lane
Washington, WV 26181
17 June 2010

Comments Required by 1 July 2010 (did not receive the notice until the 17 Jun 2010. If only 30 days allow should have been received by 1 June 2010)

Section 61-2-3

Should provide a way to register bees, existing or new hives, via forms on the Internet

If provided by the person owning apriaries an Email address, should send pertenant information via of the internet address and allow updating of the Email address on forms along with registering the apriaries.

Provide a method of contacting and sending information back to the Department such as this type of information

Section 61-2-3

If buying packaged bees from out of state, what is the method of reporting the additional colonies? Should be available via internet forms and allowing updates to the number of hives via the internet.

Section 61-2-4

How are the limits on liabitly going to be documented, how often and when; etc.?

Does not address the possibility of property being developed around the land owned by the person keeping bees.

What directions will be specified for bee keeper to follow as to the minimim requirements for say the water source, the required sign size and where to get the sign, the type of management required to minimize swarming; etc. Should be available on the internet.

What is the definition of a colony exhibiting defensive behaviour? In general, an agressive colony can generally produce more honey (one of the original reasons for the afican bee being brought to South Americia).

Does not address the possibility that someone else can allow a source of sweet substance to be available on their property (feeders for humming birds for example) that could be spilled attracting large numbers of bees.

Sincerely,



Janvier M. Ott
ottjm@casinternet.net

Colonies update JANVIER M. OTT

Lost 7 of 12 hives last
winter at former address
209 Bluebird Drive
Washington, WV

Moved 5 remaining hives to
107 Towhee Lane
Washington, WV

Made 3 splits \approx 1 May 2010

Got 5 package from Ga
 \approx 7 Jun 2010

✓ now have a total of
13 hives at new home of 16 A
107 Towhee Lane
Washington, WV