

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Agriculture TITLE NUMBER: 61

CITE AUTHORITY 19-13-3

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: West Virginia Apiary Law of 1991
(repeal and replace)

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



2.50

TITLE 61
LEGISLATIVE RULES
DEPARTMENT OF AGRICULTURE

SERIES 2
WEST VIRGINIA APIARY LAW OF 1991

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.

1.2. Authority. -- WV. Code 19-13- 3

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of former rule: This legislative rule repeals and replaces WV 61CSR2 "West Virginia Apiary Law of 1969" filed September 9, 1969 and effective October 13, 1969.

61-2-2. Registration Of Bees; Identification Of Apiaries.

2.1. 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. 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. 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 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. 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. 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. 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 WV Code 19-13-1 et seq. and by these rules.

2.5.a. Bees being kept under an educational bee registration exemption are not exempt, however, from the treatment provisions of the WV Code 19-13-1 et seq. and section 3 of these rules when a transmissible bee disease is identified in the environs of the bees being kept under such exemption.

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

3.1. 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. 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. 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. 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. 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. 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. 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. If the incidence of the bee disease is such that, in the judgement 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. 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. 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. The commissioner shall not bring additional regulatory action against any apiary owner who is complying or attempting to comply with the terms of a quarantine.

3.8. 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. The commissioner shall review any violation of a quarantine and, depending upon the severity of the violation, shall assess other penalties as provided by WV Code 19-13-1 et seq.



WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-152, State Capitol
Charleston, West Virginia 25305
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Senator William R. Wooton, Co-Chairman
Delegate David Grubb, Co-Chairman

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NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

September 10, 1991

TO: Ken Hechler, Secretary of State, State Register

TO: The Honorable Cleve Benedict
Department of Agriculture
State Capitol
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: West Virginia Apiary Law of 1991

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

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

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Dr. Charles Coffman

Barbara Smith
Compliance Division