

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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1992 APR 23 AM 11:59
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Agriculture TITLE NUMBER: 61

AMENDMENT TO AN EXISTING RULE: YES X, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: WV Apiary Law of 1991

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SBL

SECTION 64-9-1 (hh), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: April 27, 1992



2.50

TITLE 61
LEGISLATIVE RULES
DEPARTMENT OF AGRICULTURE

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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.

Bill Agri, Apiary 61-2

H. B. 4254

(By Delegate Grubb)

(Introduced January 27, 1992 ; referred to the
Committee on Agriculture and Natural Resources)
then the Judiciary

10 A BILL to amend and reenact section one, article nine, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 commissioner of agriculture to promulgate legislative rules
14 relating to the West Virginia apiary law of 1991.

15 Be it enacted by the Legislature of West Virginia:

16 That section one, article nine, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS
20 TO PROMULGATE LEGISLATIVE RULES.

21 §64-9-1. Commissioner of Agriculture.

22 (a) The legislative rules filed in the state register on the
23 sixth day of April, one thousand nine hundred eighty-three,

4254

1 relating to the commissioner of agriculture (schedule of charges
2 for inspection services: fruit), are authorized.

3 (b) The legislative rules filed in the state register on the
4 third day of August, one thousand nine hundred eighty-three,
5 relating to the commissioner of agriculture (licensing of
6 auctioneers), are authorized.

7 (c) The legislative rules filed in the state register on the
8 eighth day of February, one thousand nine hundred eighty-four,
9 relating to the commissioner of agriculture (conduct of beef
10 industry self-improvement assessment program referendum), are
11 authorized.

12 (d) The legislative rules filed in the state register on the
13 fourth day of June, one thousand nine hundred eighty-four,
14 relating to the commissioner of agriculture (feeding untreated
15 garbage to swine), are authorized.

16 (e) The legislative rules filed in the state register on the
17 fourth day of June, one thousand nine hundred eighty-four,
18 relating to the commissioner of agriculture (registration,
19 taxation and control of dogs), are authorized.

20 (f) The legislative rules filed in the state register on the
21 first day of November, one thousand nine hundred eighty-four,
22 relating to the commissioner of agriculture (public markets), are
23 authorized.

24 (g) The legislative rules filed in the state register on the
25 tenth day of September, one thousand nine hundred eighty-four,

1 relating to the commissioner of agriculture (noxious weed rules),
2 are authorized.

3 (h) The legislative rules filed in the state register on the
4 fourth day of June, one thousand nine hundred eighty-four,
5 relating to the commissioner of agriculture (animal disease
6 control), are authorized.

7 (i) The legislative rules filed in the state register on the
8 fifth day of January, one thousand nine hundred eighty-four,
9 relating to the commissioner of agriculture (use of certain
10 picloram products), are authorized.

11 (j) The legislative rules filed in the state register on the
12 eighth day of March, one thousand nine hundred eighty-five,
13 relating to the commissioner of agriculture (increasing certain
14 fees by rules and regulations), are authorized.

15 (k) The legislative rules filed in the state register on the
16 thirteenth day of January, one thousand nine hundred eighty-six,
17 modified by the commissioner of agriculture to meet the
18 objections of the legislative rule-making review committee and
19 refiled in the state register on the thirty-first day of January,
20 one thousand nine hundred eighty-six, relating to the
21 commissioner of agriculture (licensing of livestock dealers), are
22 authorized.

23 (l) The legislative rules filed in the state register on the
24 eighteenth day of June, one thousand nine hundred eighty-six,
25 modified by the commissioner of agriculture to meet the

1 objections of the legislative rule-making review committee and
2 refiled in the state register on the fifth day of January, one
3 thousand nine hundred eighty-seven, relating to the commissioner
4 of agriculture (West Virginia pesticide use and application act),
5 are authorized.

6 (m) The legislative rules filed in the state register on the
7 eighteenth day of August, one thousand nine hundred eighty-six,
8 modified by the director of the division of forestry of the
9 department of agriculture to meet the objections of the
10 legislative rule-making review committee and refiled in the state
11 register on the fifth day of January, one thousand nine hundred
12 eighty-seven, relating to the director of the division of
13 forestry of the department of agriculture (ginseng), are
14 authorized.

15 (n) The legislative rules filed in the state register on the
16 tenth day of April, one thousand nine hundred eighty-seven,
17 relating to the commissioner of agriculture (schedule of charges
18 for inspection services: fruit), are authorized.

19 (o) The legislative rules filed in the state register on the
20 thirteenth day of August, one thousand nine hundred eighty-seven,
21 modified by the commissioner of agriculture to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the eighth day of September, one
24 thousand nine hundred eighty-seven, relating to the commissioner
25 of agriculture (animal disease control), are authorized.

1 (p) The legislative rules filed in the state register on the
2 fifteenth day of September, one thousand nine hundred
3 eighty-eight, relating to the commissioner of agriculture (sale
4 and distribution of commercial fertilizer), are authorized.

5 (q) The legislative rules filed in the state register on the
6 fifteenth day of September, one thousand nine hundred
7 eighty-eight, modified by the commissioner of agriculture to meet
8 the objections of the legislative rule-making review committee
9 and refiled in the state register on the twenty-sixth day of
10 October, one thousand nine hundred eighty-eight, relating to the
11 commissioner of agriculture (animal disease control), are
12 authorized.

13 (r) The legislative rules filed in the state register on the
14 fifteenth day of May, one thousand nine hundred eighty-nine,
15 modified by the commissioner of agriculture to meet the
16 objections of the legislative rule-making review committee and
17 refiled in the state register on the twenty-first day of August,
18 one thousand nine hundred eighty-nine, relating to the
19 commissioner of agriculture (production of milk and cream for
20 manufacturing purposes), are authorized.

21 (s) The legislative rules filed in the state register on the
22 seventh day of August, one thousand nine hundred eighty-nine,
23 modified by the commissioner of agriculture to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the twenty-third day of October,

1 one thousand nine hundred eighty-nine, relating to the
2 commissioner of agriculture (animal disease control), are
3 authorized.

4 (t) The legislative rules filed in the state register on the
5 tenth day of August, one thousand nine hundred ninety, modified
6 by the commissioner of agriculture to meet the objections of the
7 legislative rule-making review committee and refiled in the state
8 register on the fifth day of October, one thousand nine hundred
9 ninety, relating to the commissioner of agriculture (meat
10 inspection), are authorized.

11 (u) The legislative rules filed in the state register on the
12 tenth day of August, one thousand nine hundred ninety, modified
13 by the commissioner of agriculture to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the third day of October, one thousand nine hundred
16 ninety, relating to the commissioner of agriculture (agricultural
17 liming materials), are authorized.

18 (v) The legislative rules filed in the state register on the
19 tenth day of August, one thousand nine hundred ninety, modified
20 by the commissioner of agriculture to meet the objections of the
21 legislative rule-making review committee and refiled in the state
22 register on the third day of October, one thousand nine hundred
23 ninety, relating to the commissioner of agriculture (public
24 markets), are authorized.

1 (w) The legislative rules filed in the state register on the
2 nineteenth day of September, one thousand nine hundred ninety,
3 modified by the commissioner of agriculture to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the ninth day of November, one
6 thousand nine hundred ninety, relating to the commissioner of
7 agriculture (animal disease control), are authorized.

8 (x) The legislative rules filed in the state register on the
9 eighth day of August, one thousand nine hundred ninety-one,
10 modified by the commissioner of agriculture to meet the
11 objections of the legislative rule-making review committee and
12 refiled in the state register on the twenty-fourth day of
13 September, one thousand nine hundred ninety-one, relating to the
14 commissioner of agriculture (West Virginia apiary law of 1991)
15 are authorized.

16

17 NOTE: The purpose of this bill is to authorize the
18 Commissioner of Agriculture to promulgate legislative rules
19 relating to the West Virginia Apiary Law of 1991.

20

21 Strike-throughs indicate language that would be stricken from
22 the present law, and underscoring indicates new language that
23 would be added.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

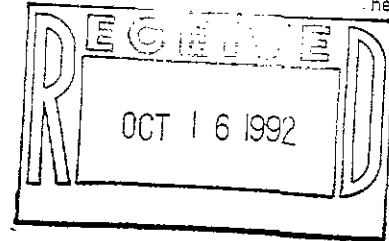
DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

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



TO: Barbara Smith

AGENCY: Department of Agriculture

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 15, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 2 TITLE: 61 Department of Agriculture

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Barbara J. Smith

TITLE OF PERSON SIGNING: Director of Compliance

DATE: 11-9-92

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.