

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

RECEIVED
2011 JUL 29 AM 11:02
SECRETARY OF STATE
ADMINISTRATIVE LAW DIVISION

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: §19-1-4(j)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2A

TITLE OF RULE BEING PROPOSED: LABELING OF IMPORTED HONEY, HONEY PRODUCTS OR
HONEY BEE BY-PRODUCTS, ADULTERATED HONEY, HONEY
PRODUCTS OR HONEY BEE BY-PRODUCTS RULE

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

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 29, 2011

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Department of Agriculture
1900 Kanawha Blvd. E., Charleston, WV 25305
Jean Smith, Director of Marketing & Development,
304-558-2210

LEGISLATIVE RULE TITLE: ~~TITLE 61, SERIES 2A. LABELING OF IMPORTED HONEY,~~
~~HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS;~~
~~ADULTERATED HONEY, HONEY PRODUCTS OR HONEY~~
BEE BY-PRODUCTS RULE

1. Authorizing statute(s) citation §19-1-4(j)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 27, 2011

b. What other notice, including advertising, did you give of the hearing?
Two direct mailings to all registered WV Beekeepers and mailing to WV Grocers' Association.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 27, 2011

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

Attached XXX No comments received _____

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

July 29, 2011

- 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 of Marketing & Development
West Virginia Department of Agriculture
1900 Kanawha Blvd. E., Charleston, WV 25305
Phone 304-558-2210 / Fax 304-558-2270 / jsmith@ag.state.wv.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)

Dan Woodrum, Assistant Director of Marketing & Development
West Virginia Department of Agriculture
1900 Kanawha Blvd. E., Charleston, WV 25305
Phone 304-558-2210 / Fax 304-558-2270 / dwoodrum@ag.state.wv.us

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.

b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached



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

**Janet L. Fisher
Deputy Commissioner**

**Bob Tabb
Deputy Commissioner**

**Steve Miller
Assistant Commissioner**

SUMMARY

TITLE 61, SERIES 2A. LABELING OF IMPORTED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS; ADULTERATED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS LEGISLATIVE RULE

The West Virginia Department of Agriculture proposes a new legislative rule to provide West Virginia consumers, honey producers and registered apiary operators protection from trade practices that include adulteration and misleading honey, honey product or honey bee by-product mislabeling. The proposed rule imposes penalties to prevent potential nondisclosure of the actual country of origin and misrepresentation of the contents of the packaged products which are purchased in the state to avoid perception that the honey, honey product or honey bee by-products are locally produced or produced within the United States of America.

The legislative rule proposal is intended to clarify and expand upon references in the Code of West Virginia, Chapter 19. Agriculture, Article 2. Marketing Agricultural Products under §19-2-7. Prohibited sales; and Article 2D. Imitation Honey Product Law under §19-2D-2. Labeling.



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

**Janet L. Fisher
Deputy Commissioner**

**Bob Tabb
Deputy Commissioner**

**Steve Miller
Assistant Commissioner**

STATEMENT OF FACTS AND CIRCUMSTANCES

TITLE 61, SERIES 2A. LABELING OF IMPORTED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS; ADULTERATED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS LEGISLATIVE RULE

The West Virginia Department of Agriculture proposes a new rule to provide West Virginia consumers, honey producers and registered apiary operators protection from trade practices that include adulteration and misleading honey, honey product or honey bee by-product mislabeling. The proposed rule imposes penalties to prevent potential nondisclosure of the actual country of origin and misrepresentation of the contents of the packaged products which are purchased in the state to avoid perception that the honey, honey product or honey bee by-products are locally produced or produced within the United States of America.

The rule has been developed through consultation with West Virginia Department of Agriculture Apiary Inspectors, West Virginia Beekeepers Association and the following sources: Federal Trade Commission; United States Department of Agriculture; Food and Drug Administration; American Beekeeping Federation; American Honey Producers Association; National Honey Packers and Dealers Association; Sioux Honey Association; Western States Honey Packers and Dealers Association; and Florida Department of Agriculture; Columbia Food Laboratories, Inc.; Nancy Gentry-Beekeeper and member State of Florida Honey Bee Technical Council, Florida Farm Bureau Apiary Advisory Committee.

AUTHORITY: As enacted by the Legislature of West Virginia as amended on June 6, 2003, and in effect from passage, §19-1-4(j) of the Code of West Virginia, grants the Commissioner of Agriculture authority to "Propose rules, including regulatory standards, for legislative approval in accordance with the provisions of article three [§§29A-3-1 et seq.], chapter twenty-nine-a of this code for the purpose of carrying out the requirements of this chapter.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: TITLE 61, SERIES 2A. LABELING OF IMPORTED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS; ADULTERATED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS **+**

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.

The proposed new rule allows the commissioner to exact a penalty to recover costs of testing only if testing proves conclusive that products have been adulterated or mislabeled. Estimated cost for testing a sample is \$250.00. Eight tests are projected at a total cost of \$2,000.00 to the West Virginia Department of Agriculture for the first fiscal year.

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	2,000.00	2,000.00	2,000.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: TITLE 61, SERIES 2A. LABELING OF IMPORTED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS; ADULTERATED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS LEGISLATIVE RULE **+**

Rule Title:

TITLE 61, SERIES 2A. LABELING OF IMPORTED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS; ADULTERATED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS
LEGISLATIVE RULE

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

The proposed new rule allows the commissioner to exact a penalty to producers, growers, shippers and retailers of honey, honey products or honey bee by-products to recover costs of testing only if testing proves conclusive that products have been adulterated or mislabeled. No increase or decrease in fees will be levied.

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.

The proposed rule would not have a fiscal impact as no increase or decrease in fees will be levied.

Date: 07/29/2011

Signature of Agency Head or Authorized Representative

Robert C. Tall

TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE
SERIES 2A

2011 JUL 29 AM 4:02

LABELING OF IMPORTED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS;
ADULTERATED HONEY, HONEY PRODUCTS OR HONEY BEE BY-PRODUCTS

§61-2A-1. General

1.1. Scope. – This legislative rule establishes guidelines for the labeling of imported or adulterated honey, honey products and honey bee by-products packaged for sale in West Virginia.

1.2. Authority. – West Virginia Code §19-1-4(j).

1.3. Filing Date. –

1.4. Effective Date. –

1.5. Enforcement.--The Department of Agriculture shall be responsible for enforcing the provisions of this rule.

§61-2A-2. Definitions

2.1. “Adulteration of honey product” means any honey product whose principal ingredient is honey and has undergone alteration, introduction of additives or processing that causes change of the product from its pure form, so as to make the product appear or misconstrued to be in its pure, unadulterated form. Any honey product shall be considered adulterated if the adulteration of the honey product is economically motivated with the intent to achieve economic gain by misleading prospective consumers through deceptive labeling or other false representation of its actual content(s) or origin(s).

2.2. “Bee pollen” is a food supplement consisting of pollen that has been packed by worker honey bees into granules, with added honey or nectar.

2.3. “Country of origin” means the country where a product originates.

2.4. “Fructose”, or fruit sugar, is a simple monosaccharide found in many foods and is the most water-soluble of all the sugars. Honey, tree fruits, berries, melons, and some root vegetables contain significant amounts of molecular fructose, usually in combination with glucose.

2.5. “Glucose” is a simple monosaccharide and carbohydrate that cells use as the primary source of energy.

~~2.4.~~ 2.6. “Honey bee by-product” is a product that directly results from honey bee manufacture of foodstuff for the nutrition and development of honey bees.

~~2.5.~~ 2.7. “Honey product” is any product that contains honey as an ingredient or whose label indicates honey as an ingredient.

~~2.6.~~ 2.8. “Imported” means brought into the United States from another country.

2.9. “Invert sugar syrup” is a mixture of simple monosaccharide sugars of glucose and fructose.

2.10. “Maltose” is the disaccharide produced when the enzyme amylase catalyzes the breakdown of starch into sugars and is often referred to as malt sugar.

2.11. “Monosaccharides” are basic units of carbohydrates and are the simplest form of sugar.

2.12. “Oligosaccharides” is a saccharide polymer containing a small number of component sugars, also known as simple sugars (monosaccharides).

2.13. “Principal ingredient” means the ingredient is the predominant ingredient by weight when other ingredients are present.

~~2.7.~~ 2.14. “Royal jelly” is a honey bee secretion that is used in the nutrition of larvae, as well as adult queens.

2.15. “Stable Carbon Isotope Ratio Analysis” for a honey test measures the carbon-13 content of the whole honey, according to Association of Official Analytical Chemists (AOAC) methods. These methods can detect the adulteration of expensive honey with cheap high-fructose corn syrup (HFCS) and cane sugar.

2.16. “Sucrose” is the organic compound commonly known as table sugar whose molecules are a disaccharide derived from glucose and fructose.

§61-2A-3. Country of Origin Labeling-Honey, Honey Products, Honey Bee By-products

3.1. Label marking permitted; removal prohibited

3.1.a. All producers, growers, and shippers of bee pollen, royal jelly and honey in this state may mark each individual package of bee pollen, royal jelly or package of honey on the ~~principle~~ principal display panel in a conspicuous place as legibly, indelibly, and permanently as possible to indicate to an ultimate purchaser that the product was produced in West Virginia. Any package of bee pollen, royal jelly or package of honey, including any package containing foreign honey blended with domestic honey, produced in any country other than the United States and offered for sale in West Virginia shall be marked individually in a conspicuous place as legibly, indelibly, and permanently as possible by the person, firm, or corporation engaged in the business of the vending of the product to indicate to an ultimate purchaser the country or countries of origin.

3.1.b. Any person, firm, or corporation engaged in the business of the vending of bee pollen, royal jelly or honey who is engaged in the business of selling products labeled or identified as to origin shall not willfully and knowingly remove the labels or identifying marks.

3.2. Penalties. -- If the Commissioner finds evidence that a vendor is found to be in violation of this rule, the Commissioner may quarantine all products from which the sample is taken and shall assess the penalties as provided in Code §19-2-11 et seq.

3.2.a. Upon receipt of documentation from the vendor that fulfills packaging and labeling requirements adopted by the State of West Virginia, the Food and Drug Administration and the Federal Trade Commission, pursuant to the Fair Packaging and Labeling Act, 15 United States Code §§ 1451-1461 et seq. and fulfills requirements as set forth in 3.1.a. and West Virginia Code §19-2D-2. Imitation Honey Product Law. Labeling., the Commissioner may lift the quarantine.

~~3.3. Enforcement.—The Department of Agriculture shall enforce the provisions of this rule.~~

§61-2A-4. Adulteration-Honey, Honey Products

4.1. The following conditions are prima facie evidence of adulteration of any honey product sold or offered for sale as honey and the honey product is subject to the provisions of West Virginia Code §19-2D-1 et seq. Imitation Honey Product Law.

4.1.a. The product has a maltose content in excess of 10%;

4.1.b. The product contains oligosaccharides indicative of invert syrup;

4.1.c. The absolute value of Stable Carbon Isotope Ratio Analysis (SCIRA) is not more negative than -20.0 for the product;

4.1.d. The product has a protein value minus honey value more negative than -1.0 by the SCIRA Standard;

4.1.e. Other tests for standard of identity for honey ~~sanctioned~~ endorsed by the United States Department of Agriculture or the National Honey Board as considered necessary by the Commissioner of Agriculture.

4.2. If the Commissioner finds evidence of adulteration through testing and a vendor is found to be in violation of the terms contained in this rule, the Commissioner may quarantine all products from which the sample is taken and shall charge the vendor a penalty to recover the costs of testing.

4.2.a. Upon receipt of documentation from the vendor that fulfills packaging and labeling requirements adopted by this state, the Food and Drug Administration and the Federal Trade Commission, pursuant to the Fair Packaging and Labeling Act, 15 United States Code §§ 1451-1461 et seq. and fulfills requirements as set forth in subdivision 3.1.a. of this rule and West Virginia Code §19-2D-2. Imitation Honey Product Law. Labeling., the Commissioner may lift the quarantine.

4.2.b. In order to protect the beekeeping industry, the Commissioner shall require destruction of the product from which the sample is taken if the documentation set forth in subdivision 4.2.a. of this rule is not received within 90 days from notice to vendor when the sample is taken.

4.3. Penalties--In addition to test cost recovery penalties, the Commissioner shall have the right to assess other penalties as provided by West Virginia Code §19-2D-3 et seq.

~~4.4. Enforcement.—The Department of Agriculture shall be responsible for enforcing the provisions of this rule.~~

Williamsburg, WV
June 11, 2011

Jean Smith
WV Department of Agriculture
1900 Kanawha Blvd E
Charleston, WV 25305

Dear Jean Smith:

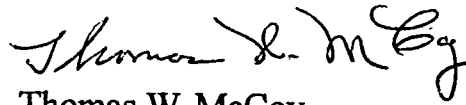
I received your letter today re labeling of honey in WV. Your letter is not clear to me as a small honey producer as to how this effects my small operation.

I am A member of the Southeastern Beekeepers Association in Greenbrier county and we have of last month 100 members not all having bees but interested in bees and their value to health and pollination. Last season I processed and sold or gave away about 80 quarts of honey and labeled each quart jar as pure West Virginia honey. I have had a few hives of bees for the last 20 years and have never made one penny of profit but only re-capped part of my expense on A yearly basis. My honey has never been anything but pure honey.

If these new rules require me to send in A sample to the state lab for testing then I will be out of business immediately because bee keeping is very time consuming at the present as well as expensive and any government intervention will cause us to loose most of our members as we have already discussed this issue at previous meetings. We already post signs as required to avoid law suits if someone were to be stung which I find A bit silly. My bees are inspected yearly by A state inspector and are disease free.

I am enclosing one of my computer generated labels. Please let me know if this is sufficient to your meet whatever new requirements your letter refers.

Yours truly


Thomas W. McCoy

Thomas W. McCoy
8635 Shoestring Trail
Box 104
Williamsburg, WV 24991

*Must say Pure Honey
and have a net
Wright statement*



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

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

Steve Miller
Assistant Commissioner

July 28, 2011

Thomas W. McCoy
8635 Shoestring Trail
Box 104
Williamsburg, WV 24991

Dear Mr. McCoy:

It is the intent of the West Virginia Department of Agriculture through the Proposed Legislative Rule §61-2A-1. to protect legitimate beekeepers and serve as a deterrent to vendors who are selling product of questionable content and/or origin. We appreciate receiving your comments and suggestions in this regard.

As to your specific question about submitting samples of your product to a state lab, under the proposed law, only vendors whose samples are found to be in violation will be subject to any fees or charges. Since your product is "nothing but pure honey" you have nothing to worry about in terms of monetary charges in regards to the proposed new rule.

As to your current labeling, the proposed new rule encourages West Virginia beekeepers and sellers of pure West Virginia honey to label their products as '100% Pure West Virginia Honey' and believe that it will aid in marketing their products. Another optional marketing element you may want to include is 'Product of the USA', 'Made in the USA' or other similar statement of origin that educates the consumer as to where the product has been produced.

The product label you included in your response, however, is missing elements that you should incorporate into your next label printing in order to comply with FDA Regulations. The West Virginia Department of Agriculture is responsible for ensuring that all commodities packaged by weight and volume meet FDA Regulations, Title 21 Code of Federal Regulations (CFR 101.)

The WVDA provides a free service to West Virginia agribusiness producers like yourself and can assist you in bringing your labels in compliance with the federal code. Your current label is missing two things that prevent it from being in compliance:

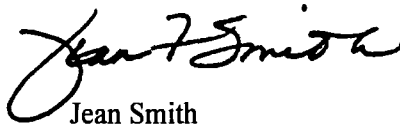
- 1) Ingredient(s) Listing- In your case in packaging pure honey, the addition of the wording '100% Pure West Virginia Honey' satisfies this ingredient requirement.
- 2) Net Quantity Statement- this is a statement on the label which provides the amount of food in net weight in the container or package. The label must show

the net contents in both US Customary System (ounces, pounds, fluid ounces,) and the metric system equivalent (grams, kilograms, milliliters, liters,) and should appear in the lower 30% of the principal display panel of the package. The net weight is the weight of the product only and does not include weight of the container, wrapper, or packing materials.

If you have further questions and to submit your label for approval, please contact Connie Tolley at (304) 558-2210 and she will be able to assist you in getting your label in compliance with the FDA.

Thank you again for your suggestions and support of WV Beekeepers on this Rule.

Sincerely,

A handwritten signature in black ink that reads "Jean Smith". The signature is written in a cursive style with a large, looping initial "J".

Jean Smith
Director, Marketing and Development

Smith, Jean

From: MARTIN, RUSSELL L. BECVAMC [RUSSELL.MARTIN@va.gov]
Sent: Wednesday, June 15, 2011 8:15 AM
To: Smith, Jean
Subject: bee law proposal

I recently received a letter discussing the pending proposal change to the vW law. I noted you were seeking comments prior to final ruling.

My thoughts.: while I can understand the general concept of protecting WV beekeepers interests via poor marketing I think this goes overboard. The Beekeeping requirements in this state are already so extensive It requires multiple reviews/discussions with the state office to even get started in beekeeping. Furthermore, I nor any of my county beekeepers have ever noted problems in selling out of honey stock every year. I just took 13 quarts off my hive Saturday and will sell the final bottle today using simple word of mouth advertising. Perhaps more time and resources should be spent in offering assistance, both financial and mentoring with new beekeepers in this state. If we increase the number of beekeepers and number of native colonies in this state we can all profit in resources, collaboration and revenue that will effectively block any need of "out of state/out of country sellers". I think if anything needs done to the existing laws concerning beekeeping, it is to trim off about 20 pages of excess rules, regulations and requirements that you and I both know are unnecessary and simply impossible to enforce anyway. As to the new proposal, who is going to be out inspecting labels in the local stores, what budget is going to be used to reimburse the store owner for confiscated items, pay for the high cost of laboratory testing etc? Even today I note multiple out of state honey in stores without all the extensive labeling requirements I am expected to comply with. When are we going to simply police our existing rules? Sorry to rant but you can understand that in my opinion, rules are only as good as the ability to understand, comply and police. Let's work on fixing what we already have and not make more. Rusty Martin

Woodrum, Dan

To: RUSSELL.MARTIN@va.gov
Cc: jsmith@ag.state.wv.us
Subject: Bee Law Proposal
Attachments: WV COOL Rule READ ONLY 7.29.11.doc

Mr. Martin,

It is the intent of the West Virginia Department of Agriculture through the Proposed Legislative Rule §61-2A-1. to protect legitimate beekeepers and serve as a deterrent to vendors who are selling product of questionable content and/or origin. We appreciate receiving your comments and suggestions in this regard.

As to your specific question regarding regulation and costs, the Regulatory and Environmental Affairs Division of the West Virginia Department of Agriculture will be responsible for regulating vendors and for having independent testing done on honey products suspected of adulteration. As written into the Rule, costs for testing will be assessed for substantiated violations of adulteration and labeling as well as possible criminal penalties. It is our hope that this regulation will deter mislabeling and help assist in identifying products that have been adulterated with imported honey and/or utilizing sugar syrups as additives in the attempt to mislead consumers.

I appreciate your thorough examination of the Rule distributed for the Comment Period Mailing and I am attaching the revised Rule for the filing of the Proposed Legislative Rule. (A strike-through indicates copy to be deleted/an underline indicates copy that has been added.)

Thank you again for your suggestions and support of WV Beekeepers on this Rule.

Dan Woodrum
Marketing & Development Division
(304) 558-2210 XT 2560

Smith, Jean

From: Steve Conlon [nfashion@thistledewfarm.com]
Sent: Wednesday, June 15, 2011 10:21 AM
To: Smith, Jean

Jeannie, I just read the proposed rule for honey. I realize that comments are to be submitted in writing , but I don't see myself having time for that. So, here's an observation. The definition of adulteration may need some tweaking. As it reads now, our flavored honeys would be considered adulterated since we introduce additives to change the product from its' pure form. Generally adulteration is done for economic gain to produce a product that appears to be in its' pure form. Additionally, those additives would not be listed as ingredients.

See you sooner than I wish, Steve

Woodrum, Dan

To: nfashion@thistledewfarm.com
Cc: jsmith@ag.state.wv.us
Subject: Proposed Legislative Rule
Attachments: WV COOL Rule READ ONLY 7.29.11.doc

Dear Steve,

Attached is a version of the revised Rule for the filing of the Legislative Rule. (A strike-through indicates copy to be deleted/an underline indicates copy that has been added.)

As you will see, the Definitions have been revised for "Adulteration of honey products" to take care of the additives issue that you raised in your comment. It now includes: *"Any honey product shall be considered adulterated if the adulteration of the honey product is economically motivated with the intent to achieve economic gain by misleading prospective consumers through deceptive labeling or other false representation of its actual content(s) or origin(s)."* Bruce Boynton with the National Honey Board agreed that this should help clarify the position on adulteration.

Thank you again for your suggestions and support of WV Beekeepers on this Rule.

Dan Woodrum
Marketing & Development Division
(304) 558-2210 XT 2560

Woodrum, Dan

From: Smith, Jean
Sent: Wednesday, July 13, 2011 10:37 AM
To: Woodrum, Dan
Subject: FW: Typographical errors in proposed new legislative rule Title 61, Series 2A

Jean F. Smith
Director, Marketing and Development
West Virginia Department of Agriculture
1900 Kanawha Blvd.E., State Capitol Building Charleston, WV 25305
email: jsmith@ag.state.wv.us
Office Phone: 304.558.2210
Fax: 304.558.2270
Cell: 304.541.5459

-----Original Message-----

From: Karen Eddleman [<mailto:karenbeekeeper@gmail.com>]
Sent: Wednesday, July 13, 2011 10:04 AM
To: Smith, Jean
Subject: Typographical errors in proposed new legislative rule Title 61, Series 2A

Dear Director:

I have reviewed the proposed new rule and offer the following corrections for your consideration:

Section 3.1.a: In the sentence referring to display panels, change the word "principle" to read "principal."
Section 3.1.a: In the same section, remove the comma following the word "indelibly," in both places in this section. (Elsewhere in the rule, you are not using a series comma; for consistency's sake, you should not use a series comma in these instances either.)
Section 3.2.a: Change "product" to "products," to be consistent with language in 4.2.
Section 4.2.a: Subdivision 3.1.a does not pertain to labeling of adulterated honey products; therefore, the reference to that section seems incorrect. It would appear that a citation of WV Code SSection 19-2D-1 may pertain.

Thank you for your attention to these matters.

Karen M Eddleman
PO Box 905
Harper's Ferry, WV 25425

Woodrum, Dan

From: Woodrum, Dan
Sent: Thursday, July 14, 2011 12:12 PM
To: karenbeekeeper@gmail.com
Cc: Smith, Jean
Subject: Re: Typographical errors in proposed new legislative rule Title 61, Series 2A
Attachments: WV COOL 7.14.11 Rule REVISE 2.doc

Ms. Eddelman,

It is the intent of the West Virginia Department of Agriculture through the Proposed Legislative Rule §61-2A-1. to protect legitimate beekeepers and serve as a deterrent to vendors who are selling product of questionable content and/or origin. We welcome your comments and suggestions in this regard.

Attached is a revision of the Legislative Rule that takes into account your communication to Jean Smith on July 13, 2011 as well as changes prompted by other comments received thus far.

I appreciate your thorough examination of the Rule distributed for the Comment Period Mailing and invite your comments on the revisions in the attachment above. (A strike-through indicates copy to be deleted/ an underline indicates copy that has been added.)

NOTE: All comments received by the 7/27/11 deadline will be reviewed and may involve incorporating additional minor revisions prior to filing of the Proposed Legislative Rule.

Thank you again for your suggestions.

Dan Woodrum
WVDA
Assistant Director, M&D
(304) 558-2210 XT2560

July 7, 2011

Jean Smith
Director, Marketing and Development
WV Department of Agriculture
1900 Kanawha Blvd. E
Charleston, WV 25305

Dear Ms. Smith:

I read the latest draft of a proposed new Legislative rule to be filed with the Secretary of State's Office for a 30-day comment period. I agree with the rule and believe it will help protect hive products of WV beekeepers. I see no reason for changes.

Sincerely yours,

A handwritten signature in cursive script that reads "Allen Leadmon". The signature is written in black ink and is positioned above the printed name.

Allen Leadmon, member
Kanawha Valley Beekeepers

requirements as set forth in subdivision 3.1.a. of this rule, the Commissioner may lift the quarantine.

4.2.b. In order to protect the beekeeping industry, the Commissioner shall require destruction of the product from which the sample is taken if the documentation set forth in subdivision 4.2.a. of this rule is not received within 90 days from notice to vendor when the sample is taken.

4.3. Penalties--In addition to test cost recovery penalties, the Commissioner shall have the right to assess other penalties as provided by West Virginia Code §19-2D-3 et seq.

4.4. Enforcement.--The Department of Agriculture shall be responsible for enforcing the provisions of this rule.

It would be nice if there was a nationwide law like this to inform consumers across the country about where their honey comes from and what has been done to it. I think if people were more informed, there would be more of a push to buy state-side and local honey. This is a good start though, and I have no recommendations for any corrections or additions. Thank you for proposing this new rule. It's a very good idea, and should really help the local beekeepers.

Laurae Hughes-Cummings
392 Grey Fox Rd.
Harpers Ferry, WV 25425



9032 Ashmeade Drive
Fairfax, VA 22032
June 16, 2011

Jean Smith
Director, Marketing and Development
WV Dept of Agriculture
1900 Kanawha Blvd East
Charleston, WV 25305-0170

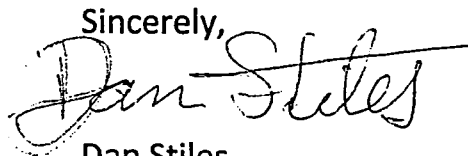
RECEIVED
JUN 21 2011

Hi!

Many thanks for the opportunity to comment on your proposed new legislative rule.

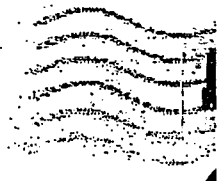
I think there is a need to explain why the rule is necessary. I assume there is a new problem involving the discovery of either deliberate or inadvertent adulteration of honey bearing West Virginia labels. I know our local Costco store sells honey imported from China (I think) at an extraordinarily modest price, and I wonder if the problem could be repackaging that honey in small containers and simply relabeling it falsely. Would the tests proposed in the new regulations under these circumstances trigger an alarm? Also, (no offence) the tests that are conducted (4.1a,b,c,d) are obviously gibberish to the majority of readers - perhaps you could explain what they entail in your cover letter next time around.

Thanks again for the opportunity to comment and best wishes.

Sincerely,

Dan Stiles



V. Daniel Stiles
9032 Ashmeade Dr.
Fairfax, VA 22032-1437





Jesse Marks Jr
3230 Ellis Rd
Linn, WV 26384

CLARKSBURG WV 263
15 JUN 2011 PM 5 T



Response to letter dated June 13th 2011

To Jean Smith

my wife (Barbara) and I are retired. we have
one colony of bees. we have some fruit
trees & a vegetable garden (for our own use)
we don't sell any honey or bee products.
we use the one colony to pollinate our trees
and garden.

Thanks for keeping us informed
Jesse J. Marks

Phone 304 462 8446

June 15, 2011



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JUN 18 2011

In response to the questions about Honey labeling:

I have noticed on labeled honey at stores "A product of Canada, USA, Argentina and China". There have also been variations in this as to "A product of North America, South America and China.

If indeed there is anything in the product other than "Pure Honey" or Pure Hive Product" then I am absolutely for putting a stop to inferior products.

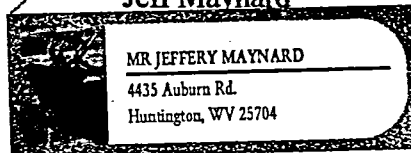
My curiosity lays in the announcement of a biochemist in India that developed a bacteria a few years ago. When placed in sugar that it would digest it and leave a product just like "Honey" and at that time there were no tests to detect it.

We were told at one gathering of bee keepers that this was being pitched to conglomerates as a way to bring down honey cost by mixing it by half with real honey. Is this true and if so what is being done about it?

Thank you for watching this situation and keeping bees healthy and Honey Pure.

Best Wishes

Jeff Maynard



Delbert W. Bennett

983 DEERWALK HWY

WAVERY WV 26184

JUN 17 2011

RECEIVED (204) 464-4609

requirements as set forth in subdivision 3.1.a. of this rule, the Commissioner may lift the quarantine.

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4.4. Enforcement.--The Department of Agriculture shall be responsible for enforcing the provisions of this rule.

I CAN ONLY SAY THAT IT IS ABOUT TIME THAT ACTION BE TAKEN ON THE FOLLOWING.

- 1- Import honey being bottled and sold as local honey.
- 2- Import honey bought by someone - and when he is asked is this your honey - He answers yes. He did not lie (because he did buy it) however the person asking wanted to know if it was local honey (seller lied in this respect)
3. Certain people mixing honey (to add coloring) to cane syrup and selling it as 100% pure honey. (this has happened).

I ONLY HOPE THIS LAW WILL PASS BUT I DO NOT EVER SEE THAT IT WILL BE ENFORCED. IT COULD BE IF IMPORT HONEY WAS TRACKED TO BUYERS & DISTRIBUTORS AND EVENTUALLY TO THE BUYER AND THEN HOW THE BUYER PACKAGES IT. RESPECTFULLY
DELBERT W. BENNETT

RECEIVED

JUN 17 2011

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June 16, 2011

I think any honey that is sold whereby the bees have been fed sugar syrup, or any other substance, that's labeled as pure honey should be in violation of the law.

Imported honey should not be accepted for sale in this country. But, if it is imported, it should be carefully tested before reaching the market. The consumer should be protected.

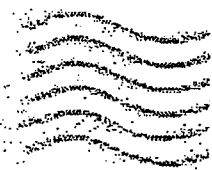
Respectfully,
Ray E. Fought
Registered Bee Keeper



Carroll Adkins
2062 Big Lynn Ck. Rd.
Genoa, WV. 25517

CHARLESTON WV 25303

21 JUN 2011 8PM 2 1



RECEIVED
JUN 22 2011

11/12/11

To whom it may concern;
I agree with the proposed
Legislative law.

I myself do not sale honey from
my hives for marketing, but I do want
those that do to be protected and for
them to abide by West Virginia Legislature.

Sincerely
Carroll Adkins



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

Janet L. Fisher
Deputy Commissioner

Bob Tabb
Deputy Commissioner

Steve Miller
Assistant Commissioner

July 28, 2011

(Individual Respondent Name and Address)

Dear _____:

It is the intent of the West Virginia Department of Agriculture through the Proposed Legislative Rule §61-2A-1. to protect legitimate beekeepers and serve as a deterrent to vendors who are selling product of questionable content and/or origin. We appreciate receiving your comments and suggestions in this regard.

We have taken into account your comments and have made some minor revisions prompted by yours and other comments received.

I appreciate your thorough examination of the Rule distributed for the Comment Period Mailing and I am enclosing the revised Rule for the filing of the Proposed Legislative Rule. (A strike-through indicates copy to be deleted/an underline indicates copy that has been added.)

Thank you again for your suggestions and support of WV Beekeepers on this Rule.

Sincerely,

A handwritten signature in black ink that reads "Jean Smith".

Jean 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**

**Steve Miller
Assistant Commissioner**

**EXPLANATION OF AMENDMENTS MADE TO PROPOSED RULE
FOLLOWING COMMENT PERIOD**

**TITLE 61, SERIES 2A. LABELING OF IMPORTED HONEY, HONEY PRODUCTS OR HONEY
BEE BY-PRODUCTS; ADULTERATED HONEY, HONEY PRODUCTS OR HONEY BEE BY-
PRODUCTS LEGISLATIVE RULE**

The attached proposed rule contains underlined additions and strikethroughs that vary marginally from the rule distributed for the comment period mailing. The amendments are intended as a response to comments received requesting additional definitions and clarification of the proposed rule.

The amendments made do not alter the intent or substance of the proposed rule which is to provide West Virginia consumers, honey producers and registered apiary operators protection from trade practices that include adulteration and misleading honey, honey product or honey bee by-product mislabeling.