



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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FILED
JUL 16 9 13 AM '99
OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

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Delegate Mark Hunt, Co-Chairman
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July 11, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Gus R. Douglass
Department of Agriculture
Capitol Complex
Building 1, Room 28

FROM: Legislative Rule-Making Review Committee

Proposed Rule: Marketing of Eggs Regulations, 61CSR7A

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
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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

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ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Department of Agriculture

Subject: Marketing of Eggs Law, 61CSR7A

PERTINENT DATES

Filed for public comment: May 10, 1999
Public comment period ended: June 11, 1999
Filed following public comment period: June 30, 1999
Filed LRMRC: June 30, 1999
Filed as emergency:

Fiscal Impact: None

OFFICE OF THE ATTORNEY GENERAL
SECRETARIAT OF STATE

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ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 3.3 has been amended to provide that refrigeration is not required for transportation of eggs when the period of transport is less than three hours.

Section 6.5 is new. It provides that egg producers who own 3,000 birds or less are to denote the expiration date of the eggs on the outside container in which the egg cartons are transported or on an invoice provided to the retailer.

AUTHORITY

Statutory authority: W.Va. Code, §19-10A-10, which provides, in part, as follows:

§19-10A-10.

(a) The commissioner shall by legislative rule establish standards for the grading,

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classification and marketing of shell eggs bought and sold by any person, firm or corporation in the state of West Virginia. These standards shall conform to, on date of the sale to the consumer, the minimum standards promulgated by the U.S. department of agriculture as defined in the "United States Standards, Grades and Weight Classes for Shell Eggs", authorized under Section 205, 60 Stat. 1091, Public Law 135, 82nd Congress; 7 U.S.C. 1624, effective July 11, 1952, as amended...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

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COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 333

§§64-9-1. Commissioner of agriculture.

The legislative rule filed in the state register on the thirtieth day of June, one thousand nine hundred ninety-nine, authorized under the authority of section ten, article ten-a, chapter nineteen of this code, relating to the commissioner of agriculture (marketing of eggs, 61 CSR 7A), is authorized.

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