

WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE
Chapter 19-5

GENERAL INDEX

FOR

SERIES VIIa

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FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE July 25, 1960
ADMINISTRATIVE LAW DIVISION

Title 61

~~WEST VIRGINIA LEGISLATIVE REGULATIONS~~ (RULE)
STATE DEPARTMENT OF AGRICULTURE
~~Chapter 19-5~~
SERIES VII~~e~~ 8A

TITLE: Fresh Fruits and Vegetables Regulations

Section 1. General

1.1 Scope - These legislative regulations establish general operating rules and procedures for fruit and vegetable commerce, and they define closed packages and proper labeling, adopt USDA and state grades as standards of quality and prohibit artificial coloring to conceal inferior quality.

1.2 Authority - W. Va. Code 19-5-1.

1.3 Filing Date - July 25, 1960

1.4 Effective Date - August 25, 1960

Section 2. Declaration of Policy

2.1 By virtue of authority vested in the Commissioner of Agriculture by Chapter 19, Article 5, Section 1, of the Code of West Virginia, I, Gus R. Douglass, do hereby prescribe, establish and promulgate the following rules, regulations, and standards to be used in grading, marking, labeling and packaging of fresh fruits and vegetables to be sold, offered for sale, exposed for sale, stored, transported or distributed for sale within the State of West Virginia.

Section 3. Closed Package - Defined

3.1 The term "closed package" shall mean any box, barrel, crate, sack, bag, tube, or any other type container in which all the contents cannot be seen or inspected to determine the grade, quality or condition without the removal of all or part of the contents from such package.

3.2 Fresh fruit and vegetables in open boxes, baskets or field crates, and containers covered with burlap, cellophane, plastics, film, slats or transparent materials of any kind shall come under the term "closed package".

Section 4. Labeling or Marking - of Containers

4.1 Every "closed package" containing fresh fruits or vegetables to be sold, offered for sale, exposed for sale, packed, transported, distributed, or stored for sale by any person, firm, corporation or organization shall bear conspicuously on the top, end or side thereof in plain words and figures the following:

4.1.1 Name and address of party responsible for product being on the West Virginia markets.

- 4.1.2 Grade or quality declaration.
- 4.1.3 Kind or variety.
- 4.1.4 Size of container, net weight or count.
- 4.1.5 Minimum size (if sold as to size, diameter, etc.)
- 4.1.6 Brand names, if any.

4.2 The size of the letters used to show this information shall be proportionate to the size and/or type of container. As a rule, every "closed package" containing fresh fruits and vegetables to be put in the West Virginia trade channels shall be as plainly labeled as that of a fifty pound(50#) paper bag showing Grade and Net Weight in not less than 1/2 inch letters and other information in not less than 3/8 inch letter. In no case may Grade and Net Weight be shown in less than 1/4 inch letters or other information in less than standard "elite" size type.

Section 5. Grades and Standards

5.1 Grades shall be those established by the United States Department of Agriculture, the West Virginia Department of Agriculture and the West Virginia State Horticultural Society.

5.2 The Commissioner may recognize any of the various states' grades should it seem to be the best interest of the State of West Virginia.

Section 6. Artificial Coloring and/or Waxing

6.1 Artificial coloring of Irish potatoes is prohibited.

6.2 Artificial coloring and/or waxing may be used on other commodities except when misleading or to conceal inferiority or damage.

6.3 When artificial coloring is used each container shall be conspicuously labeled "Color Added" in letters not less than 1/2 inch in height. If the product is displayed in open counters, color statement shall be on a placard in dark letters on a light background. This rule shall not apply to citrus where coloring is a recognized and established practice.

Section 7. Miscellaneous

7.1 Bulk shipments of fresh fruits and vegetables shall be accompanied with an invoice or bill of lading showing Grade or Quality Classification. The receiver shall be held responsible for proper labeling when product is placed on the retail market.

7.2 Fresh fruits and/or vegetables not conforming to any of the Federal

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or State grades shall be conspicuously labeled "Unclassified". Culls or pickouts may be labeled as "Culls".

7.3 It is the intent of the Commissioner of Agriculture that these regulations shall be used to assure the consuming public of the quality of fresh commodities purchased in "closed packages" and to protect the various Federal and State Grades and Standards from discriminating and abusive use within the State of West Virginia. In no way may these rules and regulations be used to defeat their intended purpose.

7.4 The foregoing rules and regulations supersede all orders, rules and regulations heretofore issued and not in effect.