

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #4

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2001 AUG 16 A 11:43

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: West Virginia Code 19-5A-3, 7, 8, 9

AMENDMENT TO AN EXISTING RULE: YES  NO

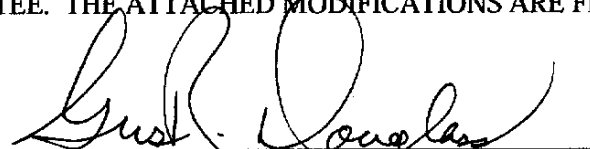
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 8 E

TITLE OF RULE BEING AMENDED: 8 E Controlled Atmosphere Storage  
of Apples.

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULES, 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.

  
Authorized Signature

\$2.60

TITLE 61  
WEST VIRGINIA LEGISLATIVE RULE  
STATE DEPARTMENT OF AGRICULTURE

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SERIES 8E  
CONTROLLED ATMOSPHERE STORAGE OF APPLES

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

§ 61-8E-1 General.

1.1 Scope – ~~These legislative regulations establish~~ This legislative rule establishes standards for controlled atmosphere storage conditions and sets forth procedures for keeping Controlled Atmosphere storage (CA) records.

1.2 Authority - W. Va. Code 19-5A-3, 7, and 9.

1.3 Filing Date -

1.4 Effective Date –

§ 61-8E-2 Administrative.

2.1 ~~Pursuant to authority vested in the Commissioner of Agriculture, by article five-a, Code of West Virginia and by virtue of public hearing of April 26, 1967, I, Gus R. Douglass, do hereby prescribe and adopt the following regulations for Controlled Atmosphere Storage of Apples. This rule implements West Virginia Code §19-5a-1 et. seq. pertaining to the Controlled Atmosphere Storage of Apples.~~

2.2 ~~Administration of article five-a is placed with the Consumer Protection Division of the West Virginia Department of Agriculture.~~ Inspections made and certificates issued by inspectors of ~~this Division~~ the West Virginia Department of Agriculture or comparable inspections of cooperating government inspectors ~~shall be~~ are prima facie evidence of compliance or noncompliance with the provision of this article.

2.3. The WV-CA number and state lot number shall be shown in letters and numbers not less than one-fourth (1/4) inch in height and shall appear on all master cartons or shipping containers. ~~Sueh~~ The numbers may be shown but are not required on primary consumer containers. Bulk bins and field crates may be identified by means of labels attached to each container when shipped in commerce for repacking as CA fruit. ~~Sueh~~ The shipping and repacking ~~must be~~ shall be done under the supervision of a state inspector. ~~Cost of such supervision shall be borne by~~ The applicant shall pay for cost of the state inspector.

Dept. of Agri.  
Leg. Regs., 19-5A  
SERIES 8E, Sec. 2

2.4 Any person who owns or operates a controlled atmosphere room or storage building located outside of West Virginia or who engages at a place outside of this State in the business of packing or repacking apples which have been held in controlled atmosphere storage and who intends to or who does market in the State of West Virginia apples treated and represented as having been exposed to "Controlled Atmosphere Storage" ~~shall be~~ is subject to the same requirements as any person located within this State: Provided, That where ~~such that~~ that person has registered with the proper authorities in the state of origin and has been licensed and assigned a registration or CA number under the authority of laws or regulations of ~~such that~~ that state, and ~~such the~~ the laws are comparable to ~~article five-a, Code of West Virginia, WV Code §19-5A-1 et seq.~~, he may engage in West Virginia commerce on the basis of ~~such that~~ that registration: Provided, however, that he ~~shall have~~ has been issued a federal, federal-state or state certificate certifying compliance with that comparable state law and regulations and that all container markings are consistent with the provisions of the West Virginia CA Law.

2.5 Any person selling or placing in transit for first shipment of delivery any apples designated or identified as CA stored shall furnish an invoice or bill of lading showing the assigned CA number, a state lot number and the number and date of the official certificate certifying the compliance of same.

2.6 A licensee shall submit to the commissioner within thirty (30) days after the CA room is filled and sealed, a report showing the quantity, lot or subplot identify by variety of the apples held and the date of sealing. If any apples other than samples are removed prior to the expiration of the minimum holding period or final opening he the licensee shall notify the commissioner in writing within three (3) days stating the quantity and identity of the apples removed.

### **§ 61-8E-3 Controlled Atmosphere Components And Time Limits.**

3.1 The maximum amount of oxygen retained in a sealed CA storage shall not exceed five percent (5%) by volume.

3.2 The maximum amount of time in which the oxygen content shall have been reduced to the above amount specified in subsection 3.1 of this section shall not exceed twenty (20) cumulative calendar days.

3.3 The fruit temperature in a CA storage room shall be maintained without significant deviation in a range of temperature as recommended by recognized research authorities as normal for the variety.

Dept. of Agri.  
Leg. Regs., 19-5A  
SERIES 8E, Sec. 3

3.4 A storage period of not less than ~~ninety (90)~~ sixty (60) calendar days shall be attained before ~~fruit apples~~ may be classed as CA stored: ~~Provided, That Jonathan variety may be classed as CA when stored a minimum of sixty (60) days.~~ Maximum storage time shall not exceed ten (10) months, but in no case, may apples be stored later than August first of the year following harvest.

3.4.1 The time lapse between the harvest date of the ~~fruit apples~~ to be CA stored and the sealing of the Controlled Atmosphere Room shall not be longer than thirty (30) consecutive calendar days during which time the ~~fruit apples~~ shall be held under normal refrigeration.

#### **§ 61-8E-4 Forms.**

4.1 The Commissioner may accept forms for recording air component determinations ~~such as that~~ are used by established storage firms: ~~Provided, that such~~ the forms clearly show the information required in ~~section eight of the law WV Code §19-5A-8 and which form has~~ have been submitted to the Commissioner for approval. In addition to the requirements ~~of section eight WV Code §19-5A-8~~ a licensee shall maintain in his or her daily record, which shall begin on the date of filling the room begins:

4.1.1 ~~The~~ Quantity of fill by variety and lot identification;

4.1.2 ~~The~~ Dates of any entry or resealing of the CA room; and

4.1.3 ~~The~~ Percentage of relative humidity.

#### **§ 61-8E-5 Minimum Condition Standards.**

5.1 The minimum condition and maturity standards for apples to be classed as CA shall be the United States Condition Standards for Export as amended from time to time.