

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

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WEST VIRGINIA
SECRETARY OF STATE

Form #6

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

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 08E

TITLE OF RULE BEING AMENDED: Controlled Atmosphere Storage of Apples

IF NO, SERIES NUMBER OF 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) SB 2001

SECTION 64-9-2(d), PASSED ON June 10, 2002

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: June 21, 2002


Authorized Signature

SCANNED

FILED

TITLE 61
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE

JUN 21 P 4 31
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 8E
CONTROLLED ATMOSPHERE STORAGE OF APPLES

§ 61-8E-1 General.

1.1 Scope .These legislative regulations establish standards for controlled atmosphere storage conditions and sets forth procedures for keeping CA records.

1.2 Authority .W. Va. Code 19-5A-3, 7, 8, and 9.

1.3 Filing Date -

1.4 Effective Date -

§ 61-8E-2 Administrative.

2.1 This rule is for the purpose of implementing West Virginia Code I 9-5a et. seq. pertaining to the Controlled Atmosphere Storage of Apples.

2.2 Inspections made and certificates issued by inspectors of the West Virginia Department of Agriculture or comparable inspections of cooperating government inspectors shall be 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. Such 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, such shipping and repacking must be done under the supervision of a state inspector. Cost of such supervision shall be borne by the applicant.

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 so treated and represented as having been exposed to "Controlled Atmosphere Storage"¹ shall be subject to the same requirements as any person located within this State: Provided, That where such 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 state, and such laws are comparable to article five-a, Code of West Virginia, he may engage in West Virginia commerce on the basis of such registration: Provided, That he shall have 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 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 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 sixty (60) calendar days shall be attained before fruit may be classed as CA stored. Maximum storage time shall not exceed ten (10) months, but in no case, later than August first of the year following harvest.

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

§ 61-8E-4 Forms.

4.1 The Commissioner may accept forms for recording air component determinations such as are used by established storage firms: Provided, That such forms clearly show the information required in section eight of the law and which form has been submitted to the Commissioner for approval. In addition to the requirements of section eight, a licensee shall maintain in his 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.

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.