WEST VIRGINIA CODE: §19-28-4

§19-28-4. Enforcement of article; authority and duties of commissioner.

(a) The commissioner is hereby charged with the duty of enforcing the provisions of this article and is hereby authorized and directed to make, amend or rescind rules and orders for the efficient enforcement of this article.

(b) Whenever the vitamin and mineral requirements set forth in sections two and three of this article are no longer in conformity with the legally established standards governing the interstate shipment of enriched flour and enriched white bread or enriched rolls, the commissioner, in order to maintain uniformity between the intrastate and interstate vitamin and mineral requirements for the foods within the provisions of this article, and to maintain and protect the health of the citizens of this state, is authorized and directed to modify or revise such requirements to conform with amended standards governing interstate shipments, and there shall be a presumption that the amended standards governing interstate shipments actually represent the standards which will promote the health and well-being of such citizens.

(c) In the event of findings by the commissioner that there is an existing or imminent shortage of any ingredient required by section two or three of this article, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this article, the commissioner shall issue an order, to be effective immediately upon issuance, permitting the omission of such ingredient from flour or white bread or rolls and, if he finds it necessary or appropriate, excepting such foods from labeling requirements until the further order of the commissioner. Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. In the absence of any such order of the appropriate federal agency or factual information supplied by it, the commissioner on his motion may, and upon receiving the sworn statement of ten or more persons subject to this article that they believe such a shortage exists or is imminent shall, within twenty days thereafter hold a public hearing with respect thereto at which any interested person may present evidence, and shall make findings based upon the evidence presented.

Whenever the commissioner has reason to believe that such shortage no longer exists, he shall hold a public hearing, at which any interested person may present evidence, and he shall make findings based upon the evidence so presented. If his findings be that such shortage no longer exists, he shall issue an order to become effective not less than thirty days after date of issuance, revoking such previous order: Provided, That undisposed floor stocks of flour on hand at the effective date of such revocation order, or flour manufactured prior to such effective date, for sale in this state may thereafter be lawfully sold or disposed of.

(d) All orders and rules adopted by the commissioner pursuant to this article, and within the

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limits specified by this article, shall become effective upon a date fixed by the commissioner.

(e) It is the duty of the commissioner to furnish to any person or organization, filing a written request for such information, a copy of any and all orders or rules, adopted pursuant to this article, at least ten days prior to the effective date of such orders or rules, and to make copies of same available to the press. In case any interested person files written objections to any proposed order or rule, the commissioner shall give an opportunity for a public hearing upon such order or rule before the same shall become effective.

(f) For the purpose of this article, the commissioner, or such officers or employees under his supervision as he may designate, is authorized to take samples for analysis and to conduct examinations and investigations, and to enter, at reasonable times, any factory, mill, bakery, warehouse, shop or establishment where flour, white bread or rolls are manufactured, processed, packed, sold or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread or rolls therein and all pertinent equipment, material, containers and labeling.

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