

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

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2013 JUL 26 PM 1:37
WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: 19-2-5

AMENDMENT TO AN EXISTING RULE: YES NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 8B

TITLE OF RULE BEING AMENDED: Schedule of Charges for Inspection Services Fruit

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 26, 2013

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Department of Agriculture
1900 Kanawha Boulevard, East
Charleston, WV 25305

LEGISLATIVE RULE TITLE: Schedule of Charges for Inspection Services Fruit

1. Authorizing statute(s) citation 19-2-5

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 26, 2013

b. What other notice, including advertising, did you give of the hearing?

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 26, 2013 10:00 a.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 26, 2013

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Jeannie Smith, Director
Marketing & Development Division
1900 Kanawha Boulevard, East
Charleston, WV 25305

- g. **IF DIFFERENT FROM ITEM 'f'**, please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A



West Virginia Department of Agriculture
1900 Kanawha Blvd. E., Charleston, WV 25305-0170
304-558-3550

Walt Helmick
Commissioner

Fees for Inspection Services – WV Code §19-2-5 provides that the Commissioner of Agriculture may, upon request, render inspection services and issue Federal-State Inspection Certificates certify the quality and/or condition for fruit produced, sold, traded, exchanged, transported or otherwise moved in the trade channels of West Virginia

Walt Helmick 6-26-13



West Virginia Department of Agriculture
1900 Kanawha Blvd. E., Charleston, WV 25305-0170
304-558-3550

Walt Helmick
Commissioner

Statement of Circumstances

Schedule for Charges for Inspection Services: Fruit

The West Virginia Department of Agriculture is requesting to amend this rule due to the following circumstances: Fees for quality audit based Federal-State programs, terminal market inspection work, and imported products inspection shall in no case be less than fees established by the Federal Agency for similar work. The fees proposed meet the Federal minimum charge to the producers.

Walt Helmick 4-26-13

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Schedule of Charges for Inspection Services Fruit

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Boulevard, East
Charleston, WV 25305

Phone Number: 304-558-3200 Email: jsmith@wvda.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Schedule of Charges for Inspection Services Fruit

Rule Title: _____

Rule Title: _____

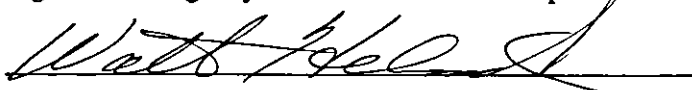
- 3. Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: July 26, 2013

Signature of Agency Head or Authorized Representative



FILED
2013 JUL 26 PM 1:36
C. GREGG HAYES, VIRGINIA
SECRETARY OF STATE

TITLE 61
LEGISLATIVE RULE
STATE DEPARTMENT OF AGRICULTURE

SERIES 8B
SCHEDULE OF CHARGES FOR INSPECTION SERVICES: FRUIT

§61-8B-1. General.

1.1. Scope. -- This legislative Rule establishes charges for Federal-State Inspection Service for Fruit.

1.2. Authority. -- W. Va. Code §19-2-5.

1.3. Filing Date. --

1.4. Effective Date. --

§61-8B-2. Declaration of Policy.

2.1. Fees for Inspection Services. -- W. Va. Code §19-2-5, provides that the Commissioner of Agriculture may, upon request, render inspection service and issue Federal-State Inspection Certificates certify the quality and/or condition for fruit produced, sold, traded, exchanged, transported or otherwise moved in the trade channels of West Virginia.

2.2. Schedule of Fees -- For the purpose of defraying the cost of inspection, the following schedule of fees apply:

2.2.1. Fruit Inspection For Processors:

Contract - Weekly Rate 40 hours per week	
Monday through Friday.....	\$640.00
Hourly Rate (1 hour minimum).....	\$25.00
Overtime per hour	\$37.50

2.2.2. GAP.GHP/Audits:

Hourly rate (1 hour minimum).....	\$75.00 92.00
Overtime per hour	\$112.50
Plus Current Mileage Rate	

2.2.3. Fruit Inspection For Quality:

Contract - Weekly Rate 40 hours per week

Monday through Friday.....	\$500.00
Hourly rate (1 hour minimum).....	\$25.00
Overtime per hour	\$37.50
Plus Current Mileage Rate	

2.2.4. Fruit Inspection Package Rate:

Per box, basket, carton 25 lbs or less.....	\$ 0.08
Per box, basket, carton 26 lbs or more	\$ 0.10
Hourly rate (1 hour minimum).....	\$25.00
Overtime per hour	\$37.50

2.2.5. FVQ Form 294 (State Sanitary Inspection)

No charge if performed in conjunction with other inspections

otherwise.....	\$ 0.05 per carton
Hourly rate (1 hour minimum).....	\$25.00
Overtime per hour	\$37.50
Plus Current Mileage Rate	

2.2.6. Expenses:

The Department may bill all necessary expenses and mileage at the WV Department of Agriculture standard rate.

2.2.7. Overtime:

The Department shall charge at the overtime rate per hour for any time in excess of eight (8) hours any single day (Monday through Friday,) or forty (40) hours any single week, or for Saturday, Sunday and holidays.

2.2.8. Special Work:

The Department shall assess fees for irregular size container or special work on the basis of the fee schedule set forth in this rule as closely as practical.



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON 25305

Walt Helmick
Commissioner

July 26, 2013

The West Virginia Department of Agriculture received no comments regarding the amendments to Schedule of Charges for Inspection Services Fruit.