



**WEST VIRGINIA  
SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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6/15/2017 11:10:52 AM

OFFICE OF  
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)**

AGENCY **Agriculture**  
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **61-08B**  
RULE NAME **Schedule of Charges for Inspection Services: Fruit**

CITE AUTHORITY **§19-2-5**

COMMENTS LIMITED TO  
**Written**

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS  
**Monday, July 17, 2017 12:00 PM**

WRITTEN COMMENTS MAY BE MAILED TO  
**Jodee Martin**  
**WV Department of Agriculture**  
**1900 Kanawha Boulevard, East**  
**Charleston, WV 25305**

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Yes**  
**Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 61-08B



Rule Id: 16502



Document: 49442



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**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 2)**

AGENCY	Agriculture				
RULE TYPE	Legislative	AMENDMENT TO EXISTING RULE	Yes	TITLE-SERIES	61-08B
RULE NAME	Schedule of Charges for Inspection Services: Fruit				

CITE AUTHORITY §19-2-5

**PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL**

**Per a Cooperative Agreement between USDA and WVDA our fee structure for GAP/GHP Audits performed by the licensed auditor with the WVDA must follow the fee structure set by USDA. Under 61CSR8B, the current fee is \$92/hr. A change to the Federal/State Cooperative Agreement requires that as of Oct 2, 2017 the rate will increase to \$108.00/hr.**

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.**

**Yes**

**Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)**

AGENCY	Agriculture				
RULE TYPE	Legislative	AMENDMENT TO EXISTING RULE	Yes	TITLE-SERIES	61-08B
RULE NAME	Schedule of Charges for Inspection Services: Fruit				

CITE AUTHORITY §19-2-5

**PRIMARY CONTACT**

Jodee Martin  
1900 Kanawha Boulevard, East

Charleston, WV 25305

Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)**

AGENCY	Agriculture				
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RULE NAME	Schedule of Charges for Inspection Services: Fruit				

CITE AUTHORITY §19-2-5

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

Per a Cooperative Agreement USDA & WVDA our fee structure for GAP/GHP Audits performed by the licensed auditor with the WVDA must follow the fee structure set by USDA. Under 61CSR8B, the current fee is \$92/hr, and a change to the Federal/State Cooperative Agreement requires that as of Oct. 1, 2017 the rate will increase to \$108.00/hr. Violation could result in termination of the Cooperative Agreement which would stop WVDA from doing any audits.

Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)**

AGENCY **Agriculture**  
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **61-08B**  
RULE NAME **Schedule of Charges for Inspection Services: Fruit**

CITE AUTHORITY **§19-2-5**

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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
<b>ESTIMATED TOTAL COST</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>PERSONAL SERVICES</b>			
<b>CURRENT EXPENSES</b>			
<b>REPAIRS AND ALTERATIONS</b>			
<b>ASSETS</b>			
<b>OTHER</b>			
<b>ESTIMATED TOTAL REVENUES</b>		<b>896</b>	<b>896</b>

Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)**

AGENCY	Agriculture				
RULE TYPE	Legislative	AMENDMENT TO EXISTING RULE	Yes	TITLE-SERIES	61-08B
RULE NAME	Schedule of Charges for Inspection Services: Fruit				

CITE AUTHORITY §19-2-5

**3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.**

**While any increase in revenue would depend on the amount of audits performed, the figures in section 2 are based on the amount of audits performed in 2016, multiplied by the average hours to perform an audit and then multiplied by the current \$92/hr rate and the new rate of \$108/hr**

**14 Audits X 4 Hours = 56hrs X \$92.00=\$5152.00**

**14 Audits X 4 Hours = 56hrs X \$108.00=\$6,048.00**

**Expected revenue increase is based on the expectations would be \$896.00/yr**

**Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)**

AGENCY	<b>Agriculture</b>				
RULE TYPE	<b>Legislative</b>	<b>AMENDMENT TO EXISTING RULE</b>	<b>Yes</b>	<b>TITLE-SERIES</b>	<b>61-08B</b>
RULE NAME	<b>Schedule of Charges for Inspection Services: Fruit</b>				

CITE AUTHORITY §19-2-5

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.

**No issue noted.**

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 61-08B



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**FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)**

AGENCY	<b>Agriculture</b>				
RULE TYPE	<b>Legislative</b>	<b>AMENDMENT TO EXISTING RULE</b>	<b>Yes</b>	<b>TITLE-SERIES</b>	<b>61-08B</b>
RULE NAME	<b>Schedule of Charges for Inspection Services: Fruit</b>				

CITE AUTHORITY §19-2-5

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

Per a Cooperative Agreement between USDA and WVDA our fee structure for GAP/GHP Audits performed by the licensed auditor with the WVDA must follow the fee structure set by USDA. Under 61CSR8B, the current fee is \$92/hr. A change to the Federal/State Cooperative Agreement requires that as of Oct 2, 2017 the rate will increase to \$108/hr

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Yes**  
**Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 61-08B



Rule Id: 16502



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61CSR8B

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. -- ~~April 21, 2014~~

1.4. Effective Date. -- ~~May 21, 2014~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect five years from its 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, inspect and issue Federal-State Inspection Certificates, certify the quality, or condition for fruit produced, sold traded, exchanged, transported through 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) .....	<del>\$92.00</del> <u>108.00</u>
------------------------------------	----------------------------------

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

61CSR8B

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.