



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

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

AGENCY: Agriculture TITLE-SERIES: 61-08B
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 61-08B Schedule of Charges for Inspection Services: Fruit

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: §19-2-5

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

The WVDA, per a Cooperative Agreement with USDA must follow the fee structure set by USDA for GAP/GHP Audits. Violation could result in termination of this Cooperative Agreement, and would stop WVDA from doing these audits

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/15/2017

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/17/2017

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

N/A

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The current fee structure set by the USDA for GAP/GHP Audits is \$92/hr. A change to the Federal/State Cooperative Agreement requires that as of October 1, 2017 the rate will increase to \$108/hr.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

A Cooperative Agreement between the USDA and WVDA is in place, and the WVDA is bound to follow the fee structure set by the USDA. If violated, the WVDA would no longer be able to perform the audits.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

While any increase in revenue would depend on the amount of audits performed, the figures 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. $14 \text{ Audits} \times 4 \text{ Hours} = 56 \text{ hrs} \times \$92 = \$5,152.00$
 $14 \text{ Audits} \times 4 \text{ Hours} = 56 \text{ Hrs} \times \$108 = \$6,048.00$
Expected revenue increase is based on the expectations would be \$896.00/yr

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

The current fee structure set by the USDA for GAP/GHP Audits is \$92/hr. A change to the Federal/State Cooperative Agreement requires that as of October 1, 2017 the rate will increase to \$108/hr.

C. FISCAL NOTE DETAIL:

| Effect of Proposal | Fiscal Year | | |
|------------------------------------|--|--|--|
| | 2017 Increase/Decrease (use "-") | 2018 Increase/Decrease (use "-") | Fiscal Year (Upon Full Implementation) |
| 1. Estimated Total Cost | 0 | 0 | 0 |
| Personal Services | | | |
| Current Expenses | | | |
| Repairs and Alterations | | | |
| Assets | | | |
| Other | | | |
| 2. Estimated Total Revenues | | 896 | 896 |

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

While any increase in revenue would depend on the amount of audits performed, the figures 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. 14Audits X 4 Hours=56hrs X \$92=\$5152.00
 14 Audits X 4 Hours = 56 Hrs X \$108=\$6,048.00

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

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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) | \$92.00 <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 |

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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.