

West Virginia Department of Agriculture

Kent A. Leonhardt, Commissioner
Joseph L. Hatton, Deputy Commissioner



July 30, 2021

Mr. Kotcon:

Thank you for your comments regarding amendments legislative rule §61CSR39 Seed Certification. Please see responses to your comments listed in red.

61-39-38.1 The table of certification fees did not appear to open properly. The version posted on the Secretary of State's website (at: <http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=54319&Format=PDF>) does not show the new potato seed certification fees. I adjusted the length in this draft to show the complete table. Other tables in this WORD document also appeared to be cut off when opened. I recommend that these be checked in whatever final draft is submitted.

The fees for the different listed commodities were the same so we were planning on removing the table and just listing the fees in the section. It does still appear to be cut off in the pdf and we can fix that.

Note that this table establishes a "Certification Fee" for seed potatoes of \$0.15 per tag issued. I note that 61-CSR-9, Appendix 6 sets a "Registration and Poundage Fee" of \$0.35 per 100 weight. Is this an inconsistency, or do those refer to different things? Is there a more clear way to summarize the required fees? I note that 61-39-38.4 indicates that "Seed testing fees" are set in 61-CSR-9, but these are not clearly indicated in either rule.

The 'Production Fee' of \$0.15 refers to the tagging/labeling of certified seed potatoes. The 'Registration and Poundage Fee' of \$0.35 per 100 weight is a different fee based on the total amount of seed potatoes offered for sale in WV. The seed testing fees set in 61-CSR-9 have traditionally referred to germination, purity, and noxious weed for seeds. That will need to be updated to include fees for seed potato testing (but the WVDA would need to work to establish that testing here before we could make the changes).

I will look into ways to clear up some of the information in this section.

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61-39-38.2 indicates a "sampling fee" of \$40 per hour plus mileage will be assessed, but the Table appears to indicate that the fee is \$35/hour. Is the "sampling fee" different from (or in addition to) an "inspection fee"?

They were originally different, but I think that may be unnecessary. I think we can make one 'Inspection & Sampling Fee' and clean this up.

Is it correct to assume that a seed potato producer would pay: 1) an application fee, 2) and inspection fee, 3) a reinspection fee (61-39-45.7.1 indicates two field inspections), 4) a sampling fee (at harvest), and 4) production fees.

As written today this would be correct. I think we can clean up the section to include on 'Inspection & Sampling Fee', 'Production Fee' (which is essentially the cost of tags), and an 'Application Fee'.

Is there a cost associated with the winter test specified in 61-39-45.8? Is this the "Seed testing fees" mentioned in 61-39-38.4, or is this the "Registration and Poundage Fee" set in Appendix 6 of 61-CSR-9? Is there a more clear way to present all the fees and costs?

There would be a cost. This should be in 61-CSR-9 or perhaps specified in this rule. This will be addressed.

Editorial comment. The Latin name for subspecies of organisms is generally not capitalized. e.g., 45.2.5 "sepedonicus" or 45.2.6. "carotovorum". This is a frequent "autocorrect" by the WORD software after a period.

I tried to catch most of these as I went, this will be fixed.

45.2.9. Among root knot nematodes, I have not found *Meloidogyne chitwoodi* in West Virginia, but I have found *M. incognita*. While *M. incognita* will freeze out in soil during a cold winter, it does infect tubers and would survive and reproduce in potato storages. *M. hapla* is widespread in the state. While crop rotation with cereals (corn, rye, wheat) will help eradicate *M. hapla*, these crops are hosts for *M. incognita* and *M. chitwoodi*. Given the pathogenicity of all three species it may be appropriate to add *M. incognita* to the list of root knot species.

I will update to include all three species.

Editorial. 45.7.1.1, Table 1 & 2, footnote 3. Insert a space after "6".

I will make this change.

Footnote 5 is unclear, as the definition of "Mosaic Virus" at 45.2.11 does include "severe forms of PVX" but the footnote exempts PVX while retaining "Mosaic". Is PVX included in "Total Virus" or not?

This will be fixed. I will review my notes and find my mistake and correct it. The footnote also includes "Candidatus Liberibacter", but not all strains of Liberibacter are associated with potato diseases. I have found two tentative species in the literature *Ca. L. solanacearum* and *Ca. L. psyllae* with the first being reported as causing "Zebra Chip". I am checking as to whether the vector psyllid insects have been found in West Virginia.

<https://edis.ifas.ufl.edu/publication/PP320>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2547047/>

You and I can keep in contact concerning these species, I am open to amending this to what we feel is appropriate.

Editorial. 45.7.6. states "Any seed lot will only be allowed on reinspection during the season." Should "on" be revised to read "one"?

Yes it should read 'one'.

Editorial. 45.7.9.7. Change "o" after "Failure" to "to".

Will change.

Editorial. 45.8.1, 45.8.2, 45.8.4, and 45.8.5 (and elsewhere). The term "post-harvest" is a compound adjective and should be hyphenated.

Will make these changes.

Please contact me if I can provide more information on these comments.

Josh Arbaugh
West Virginia Department of Agriculture