

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

FILED

2001 JUL 24 P 1:27

OFFICE 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

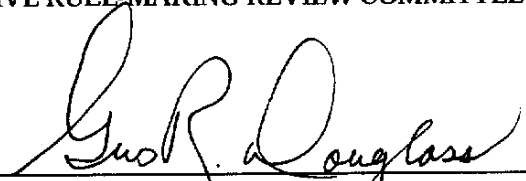
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 8 B

TITLE OF RULE BEING AMENDED: 8 B 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 24, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Department of Agriculture
1900 Kanawha Blvd., East, Room E-28
State Capitol Complex
Charleston, WV 25305
(304) 558-3550

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 5, 2001

b. What other notice, including advertising, did you give of the hearing?
Letter to 20 Producers and/or organizations that may be affected.
(copy attached) New release sent to local newspapers. (copy attached)

c. Date of Public Hearing(s) or Public Comment Period ended:
July 9, 2001 @ 7:30 p.m.

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

Attached XX No comments received _____

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

July 24, 2001

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

Steve Hannah, Deputy Commissioner

1900 Kanawha Boulevard, East

Room E-28, State Capitol Complex

Charleston, WV 25305

(304) 558-3550

- 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)

Mr. Guy Davis

Post Office Box 66

Inwood, WV 25428

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:

July 9, 2001

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

July 24, 2001

d. Attach findings and determinations and reasons:

Attached No change in regulations were made. No comments were received in objection to the proposed regulations.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Schedule of Charges for Inspection Services: Fruit

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Boulevard East

Charleston, WV 25305

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	\$ 0	0	0	0	0
CURRENT EXPENSE	\$ 0	0	0	0	0
REPAIRS & ALTERATIONS	\$ 0	0	0	0	0
EQUIPMENT	\$ 0	0	0	0	0
OTHER	\$ 0	0	0	0	0

2. Explanation of Above Estimates:

The charges to this rule will have no affect on costs to the state.

3. Objectives of These Rules:

Bring fees in line with those charged in surrounding states.
Fees were last increased in 1988.

Rule Title: Schedule of Charges for Inspection Services: Fruit

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Small increase in special revenue.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

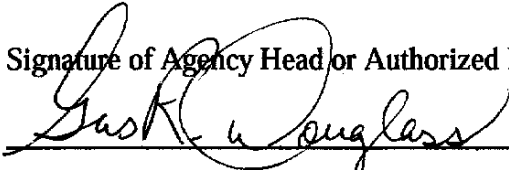
Some increase in inspection costs to apple and peach growers and apple processors.

C. Economic Impact on Citizens/Public at Large.

None

Date: July 24, 2001

Signature of Agency Head or Authorized Representative:



TITLE 61
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE

FILED

2001 JUL 24 P 1:27

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 8B
SCHEDULE OF CHARGES FOR INSPECTION SERVICES: FRUIT

§ 61-8B-1 General

1.1 Scope - These Legislative Regulations establish 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 Charges for Inspection Services - Chapter 19, Article 2, Section 5 of the Official Code of West Virginia, 1931, as amended, provides that the Commissioner of Agriculture may, upon request, render inspection service and issue Federal-State Inspection Certificates certifying 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 Charges - For the purpose of defraying the cost of inspection, the following schedule of charges shall prevail:

2.2.1 Fruit Inspection For Processors:

~~Weekly Rate (5-8 hour days) 40 hours per week..... \$340.00~~
Monday through Friday\$500.00
~~Hourly Rate (1 hour minimum)..... \$12.00-\$20.00~~
~~Overtime per hour..... \$10.00 \$30.00~~
Plus mileage at the WV Department of Agriculture standard rate

2.2.2 Fruit Inspection for bruising.

~~Weekly Rate (5-8 hour days) 40 hours per week..... \$225.00~~
Monday through Friday.....\$350.00
Hourly rate (1 hour minimum)\$20.00
~~Overtime per hour..... \$ 8.00~~ \$30.00
~~Per Day..... \$ 40.00~~
Minimum certificate fee.....\$6.00
~~Mileage (per mile)..... \$ 0.20~~
Plus mileage at the WV Department of Agriculture standard rate

2.2.3 Fruit Inspection For Quality and Control:

~~Weekly Rate (5-8 hour days) 40 hours per week.....\$225.00~~
Monday through Friday.....\$350.00
Hourly rate (1 hour minimum)\$20.00
~~Overtime per hour..... \$ 10.00~~ \$30.00
~~Minimum Certificate Fee..... \$ 5.00~~ \$6.00
~~Mileage (per mile)..... \$ 0.20~~
Plus mileage at the WV Department of Agriculture standard rate

2.2.4 Fruit Inspection Package Rate:

~~Per box, basket, carton [approximately~~
~~one (1) bushel equivalent] 25 lbs or less..... \$ 0.05~~
~~Per three-fourth (3/4) bushel container~~
~~(Peaches)..... \$ 0.05~~
Per box, basket, carton-26 lbs or more.....\$ 0.06
Hourly rate (1 hour minimum) \$20.00
Overtime per hour..... \$30.00
~~Minimum Certificate Fee..... \$ 5.00~~ \$6.00
Plus mileage at the WV Department of Agriculture standard rate

Dept. of Agri.
Leg. Regs., 19-2
SERIES 8B, Sec. 2

2.2.5 FVQ Form FJ-294 (State Sanitary Inspection)

Per container ~~approximately one (1)~~
~~—bushel equivalent any size.....~~\$ 0.01
Hourly rate [1 hour minimum]..... ~~\$ 9.00~~ \$20.00
Overtime per hour..... \$30.00
Plus mileage at the WV Department of Agriculture standard rate

2.2.6 Expenses:

All necessary expenses and ~~twenty (20) cents per mile.~~ mileage at the WV Department of Agriculture standard rate. Expenses billed at the discretion of the Department of Agriculture.

2.2.7 Overtime:

Time in excess of eight (8) hours any single day or forty (40) hours any single week, Monday through Friday. Saturday, Sunday and holidays shall be charged at the overtime rate per hour.

2.2.8 Special Work:

Fees for irregular size container or special work will be assessed on the basis of the above schedule as closely as practical.

Statement of Circumstance

Schedule of Charges for Inspection Services: Fruit

The purpose of the change in the rule is to increase fees charged to producers and processors of fruit. Due to local and regional wage rates, fees must be increased so that the West Virginia Department of Agriculture can remain competitive in their wage offerings.

FVQ Form FJ-294 (State Sanitary Inspection)

Per container ~~approximately one (1)~~

~~bushel equivalent any size~~.....\$ 0.01

Hourly rate [1 hour minimum]..... ~~\$ 9.00~~ \$20.00

Overtime per hour..... \$30.00

Plus mileage at the WV Department of Agriculture standard rate

Expenses:

All necessary expenses and ~~twenty (20) cents per mile~~, mileage at the WV Department of Agriculture standard rate. Expenses billed at the discretion of the Department of Agriculture.

Overtime:

Time in excess of eight (8) hours any single day or forty (40) hours any single week, Monday through Friday. Saturday, Sunday and holidays shall be charged at the overtime rate per hour.

Special Work:

Fees for irregular size container or special work will be assessed on the basis of the above schedule as closely as practical.

State of West Virginia
DEPARTMENT OF AGRICULTURE
 Gus R. Douglass, Commissioner

Janet L. Fisher
 Deputy Commissioner

Steve Hannah
 Deputy Commissioner

June 12, 2001

*Approved
 to Janet Fisher
 6/12/01
 PCS*

Motts Inc.
 Gene Livelsberger
 45 Asper North Road
 P.O. Box 68
 Aspers, PA 17304

*Mailed
 Copy to Canada
 for her files 6/13/01
 PCS*

Dear Mr. Livelsberger:

The West Virginia Department of Agriculture has recently filed updated rules in the Secretary of State's Office concerning the Controlled Atmosphere Storage of Apples and the Schedule of Charges for Inspection Services: Fruit.

As mandated by law, we will be hosting public hearings on proposed changes to these two laws on July 9, 2001, at the Inwood Field Office of the West Virginia Department of Agriculture at 145 Pilgrim Street in Inwood, West Virginia. The Controlled Atmosphere Storage of Apples hearing will begin at 7:00 p.m. and the Schedule of Charges for Inspection Services: Fruit will begin at 7:30 p.m.

Should you be unable to attend the public hearings, you may submit written comments on the proposed changes. Written comments should be postmarked no later than July 9, 2001.

Sincerely,

Gus R. Douglass
 Commissioner

GRD:pcs

George S. Orr & Sons
P.O. Box 906
Martinsburg, WV 25402-0906

Jefferson Orchards Inc.
P.O. Box 700
Kearneysville, WV 25430

Dave Cox
Knouse Foods Co-op. Inc.
800 Peach Glen-Idaville Road
Peach Glen, PA 17306

J. H. Kilmer
P.O. Box 6055
Martinsburg, WV 25402

Gus White & Kent Kidwell
P.O. Box 170
Inwood, WV 25428

Summit Point Raceway Orchard
P.O. Box 190
Summit Point, WV 25446

Dennis Rantum
Purchasing Department
Heinz USA
P.O. Box 57
Pittsburg, PA 15230-0057

East Coast Brokers
Batista & Evelyn Madonia
P.O. Box 2636
Plant City, FL 33564

Gene Sine
Virginia Fruit Sales
Winchester, VA 22601
(540) 662-4302

Gary Shanholtz
Shanholtz Orchards
HC 64, Box 400
Romney, WV 26757

Bill Johnson & Mike Lineburg
National Fruit Product Co. Inc.
P.O. Box 2040
Winchester, VA 22604-1240

Malcolm Orchards
HC 60, Box 64
Levels, WV 25431

Homer Feller
Mt. Levels Orchard
HC 60, Box 31-J
Levels, WV 25431

Robert Fiero
Robert Fiero Co. Inc.
410 West Race Street
Martinsburg, WV 25401

Mike Miller
Eastern Fruit Sales
Route 5, Box 629G
Martinsburg, WV 25401

Carolyn Lewis Kilmer
Orchard Estate of Charles Lewis
P.O. Box 1884
Martinsburg, WV 25401

Otho & Ronnie Lewis
Lewis Brothers Orchard
RD #1, Box 219
Martinsburg, WV 25401

J. M. Scott
National Fruit Product, Inc.
Route 1, Box 135
Gerrardstown, WV 25420

Motts Inc.
Gene Livelsberger
45 Asper North Road
P.O. Box 68
Aspers, PA 17304

West Virginia State Horticultural Society
%Mr. Doug Raines, President
P. O. Box 552
Martinsburg, WV 25401



NEWS RELEASE

Gus R. Douglass, Commissioner

Janet L. Fisher, Deputy Commissioner

Steve Hannah, Deputy Commissioner

For Immediate Release

June 14, 2001

WVDA SCHEDULES HEARINGS FOR INWOOD AREA JULY 9

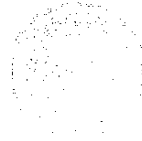
CHARLESTON, WV — Commissioner of Agriculture Gus R. Douglass announced that a public hearing has been scheduled for July 9 to receive comments regarding changes in Title 61, Series 8E, Controlled Atmosphere Storage of Apples and Title 61, Series 8B, Schedule of Charges for Inspection Services: Fruit.

The hearings are scheduled for 7:00 p.m. and 7:30 p.m., respectively, at the West Virginia Department of Agriculture's (WVDA) Inwood Field Office, 145 Pilgrim Street, Inwood.

If you would like to comment about the changes in these rules, you may appear in person at the hearing or write to Commissioner Gus R. Douglass, WVDA, 1900 Kanawha Blvd., E., Charleston, WV 25305 by July 13, 2001.

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WEST VIRGINIA DEPARTMENT OF AGRICULTURE



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Steve Hannah
Deputy Commissioner

July 9, 2001

Hearing on Schedule of charges for Inspection Service: Fruit, WV code 19-2-5

Hearing called to order at 7:30pm. by Steve Miller, Executive Director of Eastern Operations.

Those in attendance were Kent Kidwell representative for Knouse Foods, Co-op. Inc., Inwood, WV and Mike Lineburg representative for National Fruit Product Co. Inc., Winchester, VA.

Kent Kidwell representative for Knouse Foods read a prepared statement from Dave Cox, Director of Raw Fruit for Knouse Foods. (Statement is attached.)

Mike Lineburg representative for National Fruit made oral comment as follows: "As a representative for National Fruit we understand what the WV Department of Agriculture Inspection Department is doing, and that you have to remain competitive with your wage scale."

Hearing was adjourned at 7:45pm.

NAME

Address

Company

Mike Linsburg
Kent Kidwell

National Fruit
Knouse Foods.



Knouse Foods Cooperative, Inc.
P.O. Drawer E
Inwood, West Virginia 25428
Tel: (304) 229-5855
Fax: (304) 229-3515

West Virginia Department of Agriculture
Inwood Field Office
145 Pilgrim Street
Inwood, WV 25428

July 9, 2001

Dear Sirs;

On behalf of Knouse Foods, I would like to comment on the proposed amendment to the rule titled "Schedule of Charges for Inspection Service: Fruit".

Knouse Foods has been utilizing services for the inspection of processing fruit for many years at our Inwood processing plant, and at the Virginia Cold Storage facility in Charlestown WV. We understand the need to increase the fees, so that the inspection Service can remain competitive in offering wages to their workers. Although this change will increase our costs for inspection, we support the proposed amendment. With the increase, we expect to receive the same level of service we have received in the past.

Respectfully submitted,
Knouse Foods Cooperative, Inc.

Dave Cox
Director of Raw Fruit

[Faint handwritten notes and stamps at the bottom right of the page]