



WEST VIRGINIA LEGISLATURE  
Legislative Rule-Making Review Committee

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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August 08, 2001

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Steve Hannah  
Agriculture, WV Department of  
Capitol Complex  
Building 1, Room E28

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Schedule of Charges for Inspection Services: Fruit, 61CSR8B**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
  - (a) as originally filed
  - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** Department of Agriculture

**Subject:** Schedule of Charges for Inspection Services: Fruit, 61CSR8B

PERTINENT DATES

Filed for public comment: June 5, 2001

Public comment period ended:

Filed following public comment period: July 24, 2001

Filed LRMRC: July 24, 2001

Filed as emergency:

Fiscal Impact: The fiscal note indicates that there is no fiscal impact from the proposed rule. However, the Department will be receiving additional moneys due to increased fees.

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ABSTRACT

The proposed rule amends a current legislative rule. It increases the fees which the Department of Agriculture charges to inspect fruit and issues federal and state inspection certificates. It also allows the Department of Agriculture to charge mileage at the Department's standard rate.

AUTHORITY

Statutory authority: W.Va. Code, §19-2-10, which provides as follows:

...The commissioner of agriculture shall be charged with the enforcement of this article and shall have authority to make and enforce rules and regulations for the administration of this article.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.