

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

2008 JUN 26 PM 2:19

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative CITE AUTHORITY: 19-2-5

AMENDMENT TO AN EXISTING RULE: YES  NO

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

TITLE OF RULE BEING AMENDED: Schedule of Charges For Inspection Services; Fruit

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 26, 2008 AT 4:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Department of Agriculture

Jean Smith, Director, Marketing and Development

1900 Kanawha Boulevard, East

Charleston, WV 25305-0172

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

2009 JUN 26 PM 2:49

TITLE 61  
WEST VIRGINIA 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. -- ~~June 21, 2002.~~

1.4. Effective Date. -- ~~June 21, 2002.~~

§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, render inspection service and issue Federal-State Inspection Certificates certify 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 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 ..... \$~~500.00~~ 640.00  
Hourly Rate (1 hour minimum)..... \$~~20.00~~ 25.00  
Overtime per hour ..... \$~~30.00~~ 37.50

2.2.2. ~~Fruit Inspection for bruising.~~  
GAP.GHP/Audits

~~Monday through Friday ..... \$350.00~~  
~~Hourly rate (1 hour minimum) ..... \$20.00 75.00~~  
~~Overtime per hour ..... \$30.00 112.50~~  
~~Minimum certificate fee ..... \$6.00~~  
Plus Current Mileage Rate

2.2.3. Fruit Inspection For Quality and Control:

Contract - Weekly Rate 40 hours per week  
Monday through Friday ..... \$~~350.00~~ 500.00  
Hourly rate (1 hour minimum) ..... \$~~20.00~~ 25.00  
Overtime per hour ..... \$~~30.00~~ 37.50  
~~Minimum Certificate Fee \$6.00~~  
Plus Current Mileage Rate

2.2.4. Fruit Inspection Package Rate:

Per box, basket, carton 25 lbs or less..... \$ ~~0.05~~ 0.08  
Per box, basket, carton-26 lbs or more ..... \$ ~~0.06~~ 0.10  
Hourly rate ( 1 hour minimum) ..... \$~~20.00~~ 25.00  
Overtime per hour ..... \$~~30.00~~ 37.50  
~~Minimum Certificate Fee ..... \$6.00~~

2.2.5. FVQ Form 294 (State Sanitary Inspection)

~~Per container any size~~ No charge if performed in conjunction with other inspections otherwise... \$ ~~0.01~~ 0.05 per carton  
Hourly rate {(1 hour minimum)}..... \$~~20.00~~ 25.00  
Overtime per hour ..... \$~~30.00~~ 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

**61CSR8B**

irregular size container or special work on the basis of the fee schedule set forth in this rule as closely as practical.



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

Janet L. Fisher  
Deputy Commissioner

Steve Hannah  
Deputy Commissioner

**SUMMARY OF PROPOSED RULE**  
**DISPOSAL OF POULTRY MORTALITY**  
**TITLE 61 – SERIES 8B**

**§61-8B-2. Declaration of Policy.**

- a- Add Contract to weekly rate of 40 hours per week.
- b- Change fee for Monday through Friday inspection service to \$640.00 from \$500.00.
- c- Change fee for hourly rate to \$25.00 from \$20.00.
- d- Change overtime per hour rate to \$37.50 from \$30.00.
- e- Add "Plus Current Mileage Rate".
- f- Remove "Fruit Inspection for bruising" replace with "GAP.GHP/Audits" to classify inspection services provided.
- g- Remove "Monday through Friday.....\$350.00"
- h- Change fee for hourly rate to \$75.00 from \$20.00.
- i- Change fee for overtime per hour rate to \$112.50 from \$30.00.
- j- Remove "Minimum certificate fee.....\$6.00"
- k- Add "Plus Current Mileage Rate".
- l- Remove Control
- m- Add Contract to weekly rate of 40 hours per week.

Schedule of Charges For Inspection Services: Fruit  
Title 61 – Series 8B  
Page 2

- n- Change fee for Monday through Friday inspection service to \$500.00 from \$350.00.
- o- Change fee for hourly rate to \$25.00 from \$20.00.
- p- Change fee for overtime per hour rate to \$37.50 from \$30.00
- q- Remove “Minimum certificate fee.....\$6.00”
- r- Change fee for “Per box, basket, carton 25 lbs or less to \$ 0.08 from \$ 0.05.
- s- Change fee for “Per box, basket, carton- 26 lbs or more to \$ 0.10 from \$ 0.06.
- t- Change fee for hourly rate to \$25.00 from \$20.00.
- u- Change fee for overtime per hour rate to \$37.50 from \$30.00
- v- Remove “Minimum certificate fee.....\$6.00”
- w- Remove “Per container any size” replace with “No charge if performed in conjunction with other inspections otherwise..... change fee to \$ 0.05 per carton from 0.01.
- x- Change fee for hourly rate to \$25.00 from \$20.00.
- y- Change fee for overtime per hour rate to \$37.50 from \$30.00
- z- Add “Plus Current Mileage Rate”.

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Schedule of Charges for Inspection Services: Fruit Title 61, Series 8B

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0172

Phone Number: 304-558-2210 Email: jsmith@ag.state.wv.us

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The proposed raise in fees for 2.2.1., 2.2.3., 2.2.4. and 2.2.5. are needed to cover expenses incurred through performing inspections. These increases are also in line with the fees charged by neighboring states. Fee increases in 2.2.2. are due to a federally mandated increase in conjunction with Cooperative Agreements held between the WVDA and USDA.

**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.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	116,429.00	120,000.00	120,000.00
Personal Services	102,300.00	105,600.00	105,600.00
Current Expenses	14,129.00	15,000.00	15,000.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	30,500.00	69,000.00	69,000.00

Rule Title:

Title 61 Series 8B

Rule Title: Title 61, Series 8B

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

The increase of fees allow for coverage of expenses incurred in performing inspections are in cooperative with federal and state guidelines. The adjustments represent actual costs attributed to personnel used to complete these inspections throughout the state.

**MEMORANDUM**

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.

Date: 06/26/2008

Signature of Agency Head or Authorized Representative

*Stoneman*

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STATE DEPARTMENT OF AGRICULTURE

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Overtime per hour .....	<del>\$30.00</del> 112.50
Minimum certificate fee.....	\$6.00
<u>Plus Current Mileage Rate</u>	

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<u>Contract - Weekly Rate 40 hours per week</u>	
Monday through Friday .....	<del>\$350.00</del> 500.00
Hourly rate (1 hour minimum) .....	<del>\$20.00</del> 25.00
Overtime per hour .....	<del>\$30.00</del> 37.50
Minimum Certificate Fee .....	<del>\$6.00</del>
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2.2.4. Fruit Inspection Package Rate:

Per box, basket, carton 25 lbs or less.....	\$ 0.05 0.08
Per box, basket, carton-26 lbs or more .....	\$ 0.06 0.10
Hourly rate ( 1 hour minimum) .....	<del>\$20.00</del> 25.00
Overtime per hour .....	<del>\$30.00</del> 37.50
Minimum Certificate Fee .....	<del>\$6.00</del>

2.2.5. FVQ Form 294 (State Sanitary Inspection)

<del>Per container any size</del> <u>No charge if performed in conjunction with other inspections otherwise...</u>	
	<del>\$ 0.01</del>
<u>0.05 per carton</u>	
Hourly rate [(1 hour minimum)].....	<del>\$20.00</del> 25.00
Overtime per hour .....	<del>\$30.00</del> 37.50
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