

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

Form #3

Do Not Mark In This Box

FILED
2007 JUL 24 PM 2:37

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: 19-16A-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 12

TITLE OF RULE BEING AMENDED: Fee Structure for the Pesticide Control Act of 1990

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: 07/23/2007

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Department of Agriculture
1900 Kanawha Boulevard East
Charleston WV 25305-0190
304-558-2209/304-558-2227

LEGISLATIVE RULE TITLE: Fee Structure for the Pesticide Control Act of 1990

1. Authorizing statute(s) citation 19-16A-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
06/13/2007

b. What other notice, including advertising, did you give of the hearing?
Sent a mailing detailing the proposed fee increases to private and commercial pesticide applicators, pesticide dealers, pesticide application businesses and pesticide product registration companies. Also notified the following associations: Crop Life America (CLA), Consumer Specialty Products Association (CSPA) and RISE (Responsible Industry For A Sound Environment).

c. Date of Public Hearing(s) *or* Public Comment Period ended:
07/13/2007

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached X No comments received

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

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

<u>Herma Johnson, Director</u>	<u>Grant Bishop, Assistant Director</u>
<u>Regulatory & Environmental Affairs Division</u>	<u>Pesticide Regulatory Programs</u>
<u>WVDA</u>	<u>WVDA</u>
<u>1900 Kanawha Boulevard East</u>	<u>1900 Kanawha Boulevard East</u>
<u>Charleston WV 25305-0190</u>	<u>Charleston WV 25305-0190</u>
<u>hjohnson@ag.state.wv.us</u>	<u>gbishop@ag.state.wv.us</u>
<u>304-558-2227</u>	<u>304-558-2209</u>
<u>304-558-3594 fax</u>	<u>304-558-2228 fax</u>

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)

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:

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

d. Attach findings and determinations and reasons:

Attached



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

Janet L. Fisher
Deputy Commissioner

Steve Hannah
Deputy Commissioner

Summary

Fee Structure for the Pesticide Control Act of 1990

§61-12

Amendments to Existing Rule

61-12-2. Examinations.

2.1 Increase fee from \$10 per examination session to \$20 per session.

61-12-3. Classification and Fees of Pesticide Business Licenses.

3.1 Pesticide application business – Increase annual fee from \$50 to \$60.

3.2 Pesticide consultant – Increase annual fee from \$50 to \$60.

3.3 Pesticide dealer – Increase annual fee from \$10 to \$60.

61-12-5. Product Registration.

5.1 Increase annual fee from \$100 to \$125.



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

Janet L. Fisher
Deputy Commissioner

Steve Hannah
Deputy Commissioner

Statement of Circumstances
Fee Structure for the Pesticide Control Act of 1990
§61-12

Amendments to Existing Rule

The proposed amendment to Title 61, Series 12, Fee Structure for the Pesticide Control Act of 1990, would increase fees for pesticide certification examinations, pesticide application business, consultant and dealer licenses, and pesticide product registrations.

Proposed fee increases are as follows:

Pesticide applicator examinations: Increase fee from \$10 per exam session to \$20 per session.

Licensed pesticide application business: Increase annual fee from \$50 to \$60.

Pesticide consultant: Increase annual fee from \$50 to \$60.

Pesticide dealer: Increase annual fee from \$10 to \$60.

Pesticide products: Increase annual fee from \$100 to \$125.

Licensing fees for pesticide application businesses have not seen an increase in more than 17 years. During that same period of time, staff of the Pesticide Regulatory Programs office has more than doubled. In order to continue the services currently offered by the Department, an increase is necessary. The increases will help to maintain the services currently offered free of charge, such as container recycling, pesticide waste disposal, pesticide and equipment safety training, respirator fit testing, HeartSaver First Aid training, and initial certification and recertification training. Our laboratory equipment requires yearly maintenance contracts. Other costs are incurred in disposal of laboratory chemical waste as a result of sample collection and yearly training and certification of laboratory personnel. Travel costs have increased for field staff to ensure compliance with pesticide licensing and application regulations. Added costs are also involved in an emphasis on compliance assistance for Integrated Pest Management in School and Day Care Centers/Facilities to reduce children's exposure to pesticides and in a program to supply pressure rinse nozzles to pesticide applicators who participate in the pesticide container recycling program. Lack of a fee increase may result in a cost to the applicator for these programs, which many pesticide applicators have come to expect as services of the Department of Agriculture.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Fee Structure for the Pesticide Control Act of 1990

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Boulevard East
Charleston WV 25305-0190

Phone Number: 304-558-2209 Grant Bishop Email: gbishop@ag.state.wv.us
304-558-2227 Herma Johnson hjohnson@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.

Licensing fees for pesticide application businesses have not seen an increase in more than 17 years. During that same period of time, staff of the Pesticide Regulatory Programs office has more than doubled. Many innovative programs, such as initial certification training, Ag Safety Days and pesticide container recycling and disposal are currently offered free of charge. Other more traditional services, such as sample collection and analysis and consumer complaint assistance, are also currently offered free of charge. Lack of a fee increase may result in a cost to the applicator for these programs, which many pesticide applicators have come to expect as services of the Department of Agriculture.

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	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
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	252,340.00	252,340.00	252,340.00

Rule Title: _____

Rule Title: Fee Structure for the Pesticide Control Act of 1990

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

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

Proposed fee increases are as follows:

Pesticide applicator examinations: Increase fee from \$10 per exam session to \$20 per session.
Licensed pesticide application business: Increase annual fee from \$50 to \$60.
Pesticide consultant: Increase annual fee from \$50 to \$60.
Pesticide dealer: Increase annual fee from \$10 to \$60.
Pesticide products: Increase annual fee from \$100 to \$125.

In order to continue the services currently offered by the Department, an increase is necessary. The increases will help to maintain the current services that we offer free of charge, such as container recycling, pesticide waste disposal, pesticide and equipment safety training, respirator fit testing, HeartSaver First Aid training, initial certification and recertification training. Our laboratory equipment requires yearly maintenance contracts, disposal of laboratory chemical waste as a result of sample collection and yearly training and certification of laboratory personnel. Travel costs have increased for field staff to ensure compliance with pesticide licensing and application regulations. Added costs are involved in an emphasis on compliance assistance for Integrated Pest Management in School and Day Care Centers/Facilities to reduce children's exposure to pesticides and in a program to supply pressure rinse nozzles to pesticide applicators who participate in the pesticide container recycling program.


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.

Changes to Title 61, Series 12B rules are also being proposed. One proposed change includes a requirement for pest control companies to display the company name and license number on vehicles. The other change exempts employees of regulated pesticide application businesses from pesticide applicator licensing for the use of over-the-counter, ready-to-use pesticides, with the exception of employees of educational institutions, food handling establishments, health care and convalescent facilities.

Date: 7-23-07

Signature of Agency Head or Authorized Representative



TITLE 61
LEGISLATIVE RULE
WEST VIRGINIA DEPARTMENT OF AGRICULTURE

SERIES 12
FEE STRUCTURE FOR THE PESTICIDE CONTROL ACT OF 1990

§61-12-1. General.

1.1. Scope -- This legislative rule establishes the fee structure to be used under the Pesticide Control Act of 1990.

1.2. Authority -- W. Va. Code §19-16A-4.

1.3. Filing Date -- ~~May 15, 2001~~

1.4. Effective Date -- ~~June 1, 2001~~

FILED
2007 JUL 24 PM 2:37
DEPARTMENT OF AGRICULTURE
WEST VIRGINIA
SECRETARY OF STATE

§61-12-2. Examinations.

2.1. The Commissioner shall assess each person taking an examination for a license, certification or certificate a fee of ~~\$10.00~~ 20.00 per examination session. This fee is for one or more examinations taken at the same time. This examination fee shall be used to help defray the costs of training materials, postage and processing of licenses, certification and certificates.

§61-12-3. Classification and Fees of Pesticide Business Licenses.

3.1. Pesticide application business - The Commissioner shall assess an annual fee of ~~\$50.00~~ 60.00 for each pesticide application business engaged in the business of applying pesticides upon the lands of another. Pesticide application business making non solicited recommendations of pesticide products, made in the course of normal business practices, shall be exempt from a consultant license and fee.

3.2. Pesticide consultant - The Commissioner shall assess an annual fee of ~~\$50.00~~ 60.00 for each pesticide application business engaged in the business of soliciting or offering services for hire to recommend the use of pesticide on the lands of others.

3.3. Pesticide dealer - The Commissioner shall assess an annual fee of ~~\$10.00~~ 60.00 for each person who sells, wholesales, distributes, offers or exposes for sale, exchanges or gives away any restricted use pesticide within or into this State. Commercial delivery services shall not be deemed as distributors of pesticides.

§61-12-4. Classification and Fees of Applicator Certificates.

4.1. Commercial applicator - The Commissioner shall assess an annual fee of \$10.00 for each person who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as a private applicator.

4.2. Private applicator - The Commissioner shall assess a fee of \$10.00 every three years to maintain certification as a private applicator to apply restricted use pesticides for the purpose of producing any

agricultural commodity on property owned or rented by him or her employer or is applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person.

4.3. Registered technician - The Commissioner shall assess an annual fee of \$10.00 for each person qualifying as a registered technician.

§61-12-5. Product Registration.

5.1. The Commissioner shall assess an annual registration fee of ~~\$100.00~~ 125.00 per product for each pesticide which is manufactured, distributed, sold or offered for sale, delivered for transportation or transported in intrastate commerce of between points within this State through any point outside this State.

5.2. Pesticide products used or offered for use within the State under a bonafide experimental research permit issued by the United States environmental protection agency shall be registered but are exempt from the annual registration fee, provided the products are offered at no charge to cooperators and a copy of the experimental research permit is submitted with registration as an experimental use product with the State.



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

Janet L. Fisher
Deputy Commissioner

Steve Hannah
Deputy Commissioner

Amendments As A Result of Comments Received

Fee Structure for the Pesticide Control Act of 1990

§61-12

61-12-3. Classification and Fees of Pesticide Business Licenses.

- 3.1 Pesticide application business – Increase annual fee from \$50 to \$60, rather than from \$50 to \$75, as a result of comments from industry and associations.
- 3.2 Pesticide consultant – Increase annual fee from \$50 to \$60, rather than from \$50 to \$75, as a result of comments from industry and associations.
- 3.3 Pesticide dealer – Increase annual fee from \$10 to \$60, rather than from \$10 to \$75, as a result of comments from industry and associations.

61-12-4. Classification and Fees of Applicator Certificates

- 4.1 The fees for commercial applicators will not increase, as a result of comments from applicators and associations.
- 4.2 The fees for private applicators will not increase, as a result of comments from applicators.
- 4.3 The fees for registered technicians will not increase, as a result of comments from associations.

61-12-5. Product Registration.

- 5.1 Increase annual fee from \$100 to \$125, rather than from \$100 to \$150, as a result of comments from industry and associations.



July 13, 2007

Mr. Grant Bishop
West Virginia Department of Agriculture,
Regulatory & Environmental Affairs Division
1900 Kanawha Boulevard East
Charleston, WV 25305-0190

Dear Grant,

CropLife America, on behalf of its member companies, submits these comments in response to notice of 30 Day Public Comment Period for proposed changes to **61-12 Fee Structure for the Pesticide Control Act of 1990**.

Statement of Interest

Established in 1933, CropLife America represents more than 80 developers, manufacturers, formulators and distributors of virtually all the crop protection products used by American farmers and growers. We are the voice of the industry that ensures the safe and responsible use of pesticides in order to provide a safe, affordable and abundant food supply. Pesticide registrants would be affected by any increase in the state pesticide registration fee.

Comments:

CropLife America recognizes the importance of adequate funding for state pesticide regulatory programs in order for the state's pesticide regulatory authority to carry out its public trust and to ensure that pesticide products are properly regulated. However, our member companies are not supportive of a 50% pesticide registration fee increase. If the \$50 increase is enacted, we would respectfully request that you consider a two year phase-in period.

It is our understanding that 100% of the funding collected from pesticide registration fees is kept in the Department for use in the basic registration and regulatory program in West Virginia, and CropLife America is supportive of this segregated use of the funds. Our major area of concern is with the size of the increase in a single year. Fee increases of such large magnitude can be very disruptive to the budgeting process for companies who are managing hundreds of registrations over 50 states. Therefore, we request that a two year phase-in period be considered.

Sincerely,

A handwritten signature in black ink that reads "Rodney J. Snyder".

Rod Snyder
Government Affairs Leader
CropLife America
1156 15th Street NW, Suite 400
Washington, DC 20005
202-872-3899

• Representing the Plant Science Industry •

Grant Bishop

From: Grant Bishop [gbishop@ag.state.wv.us]
Sent: Friday, July 13, 2007 3:51 PM
To: 'Rodney Snyder'
Subject: RE: Comments from CropLife America on proposed pesticide fee increase

Rod,

I have received and reviewed your letter. Thanks for your interest and comments. I assure you that your request for a "phase-in" of the proposed fee will be considered prior to Agency Approved Filing with the Secretary of State. In addition your letter will be provided to the Legislative Rule Making & Review Committee for review prior to the regular legislative session in 2008. Once again, thank you.

Grant Bishop
Assistant Director
Regulatory and Environmental Affairs Division
Pesticide Regulatory Programs
1900 Kanawha Boulevard, East
Charleston, WV 25305
Phone: (304) 558-2209 ext. 4200
Fax: (304) 558-2228
gbishop@ag.state.wv.us

From: Rodney Snyder [mailto:RSnyder@croplifeamerica.org]
Sent: Friday, July 13, 2007 2:35 PM
To: 'gbishop@ag.state.wv.us'
Subject: Comments from CropLife America on proposed pesticide fee increase

Grant,

I hope you're doing well. Please see the attached comments from CropLife America related to the proposed changes to 61-12 Fee Structure for the Pesticide Control Act of 1990. Let me know if you have any questions.

Thanks,

Rod Snyder
Government Affairs Leader
CropLife America
1156 Fifteenth Street, NW
Suite 400
Washington, DC 20005
ph. (202) 872-3899
fax (202) 463-0474
cell (202) 577-6645
rsnyder@croplifeamerica.org



Responsible Industry for a Sound Environment®

July 10, 2007

Mr. Grant Bishop
West Virginia Department of Agriculture,
Regulatory & Environmental Affairs Division
1900 Kanawha Boulevard East
Charleston, WV 25305-0190

Dear Grant,

RISE (Responsible Industry for a Sound Environment)®, on behalf of its member companies, submits these comments in response to notice of 30 Day Public Comment Period for proposed changes to **61-12 Fee Structure for the Pesticide Control Act of 1990**.

Statement of Interest

RISE is a national not-for-profit trade association representing over 220 producers and suppliers of specialty pesticide and fertilizer products to both the professional and consumer (do-it-yourself) markets. Established in 1991, RISE serves as a resource and provides current and accurate information on issues and research affecting the specialty pesticide and fertilizer industries. RISE member companies manufacture over 90 percent of domestically produced conventional specialty pesticides utilized in the United States, including consumer lawn and garden, professional pest control, golf course and other professional turf and lawn care, greenhouse and nursery, and mosquito control products. Pesticide labels supplied and used in these market segments would be affected by any increase in the state pesticide registration fee..

Comments:

RISE Members would prefer not to see a 50% pesticide registration fee increase. If the \$50 increase is enacted, we request that you consider a two year phase-in period.

We recognize the importance of adequate funding for state pesticide regulatory programs, in order for the state's pesticide regulatory authority to carry out its public trust and to ensure that pesticide products are properly regulated. Please see the companion document to this comment titled "State Registration Fee Accord" for full detail of our position on state pesticide registration fees.

It is our understanding that 100% of the funding collected from pesticide registration fees is kept in the Department for use in the basic registration and regulatory program in West Virginia as funds are now administered. Our major area of concern is with the magnitude of the increase in a single step. Specialty (non-agricultural) pesticide registrations typically make up 70% or more of the total product registrations in a state due to the number of brand-names, package and label use combinations, and niche markets represented. Single step increases of such large magnitude can be very disruptive to the budgeting process for companies with several hundred registrations over 50 states. Therefore, though we would prefer not to see such a large increase, we request that based on the magnitude, a two year phase-in period be considered.

Sincerely,

Frank A. Gasperini Jr.
Director of State Issues
RISE
1156 15th Street NW, Suite 400
Washington, DC 20175
202-872-3843

STATE REGISTRATION FEE ACCORD
BETWEEN
CROP LIFE AMERICA (CLA), CONSUMER SPECIALTY PRODUCTS
ASSOCIATION (CSPA) and RISE (RESPONSIBLE INDUSTRY FOR A SOUND
ENVIRONMENT)

The above parties recognize the importance of adequate funding for state pesticide regulatory programs, in order for the state's pesticide regulatory authority to carry out its public trust and to ensure that pesticide products are properly regulated. The basic state pesticide regulatory program can include activities in the areas of registration, administration, investigation and enforcement, education, training and stewardship for programs uniformly applicable to all products and uses. The components that comprise basic programs may vary from state to state.

To promote industry cooperation on government affairs issues related to state pesticide registration fees and programs, parties to this Accord support the following principles in funding state pesticide programs:

- I. The basic pesticide regulatory program should, in part, receive allocations from the state's general fund and federal grants.
- II. Fees derived from registration of pesticide products should be reasonable and equitable for all pesticide products and be used only to support the state's basic pesticide regulatory program.
- III. In the event a state identifies a funding need outside the basic state pesticide regulatory program that pertains only to a product, group of products or a special activity or program that only impacts or benefits one select market segment, special fee assessments should be levied only on those products that are impacted and/or benefit from the program.

In addition, the parties to the Accord agree to actively and jointly support the following actions related to state pesticide fees:

- a) If any party becomes aware of a state pesticide funding issue or any contemplated change in pesticide registration or special fees, the party will notify and consult with other parties to this Accord at the earliest possible time in order to ensure a coordinated industry approach.
- b) Wherever possible, the parties will work with state regulators to address any valid needs or inequities that exist in state registration fee structures.

- c) All parties will oppose transfer of pesticide registration fees and/or special pesticide fees to unrelated programs administered by state agencies or state general funds.
- d) The parties agree not to engage in independent action that would change existing state laws, definitions, or classifications of pesticide products in any manner that is inconsistent with FIFRA, unless a need is established in order to assess a special fee to a group of products.
- e) Each party has the need to enhance the public perceptions of their member's products through positive public relations efforts, but agrees not to promote one type or class of pesticide product over another as being "safer".
- f) All parties shall communicate this Accord to all related organizations, respective members and state and regional associations, state regulators and other affiliated groups and parties.

This Accord is not intended to bar any association from independent legislative action that is necessary to protect the interest of its membership in areas not related to pesticide fees and pesticide registration issues that are subject to the above provisions. Parties recognize that individual member companies may take action or promote legislation not in compliance with this agreement. Parties agree to discourage this type activity, and to notify other parties to the Accord about this activity as soon as reasonably possible.

When executed by all parties, this Accord shall continue in effect until one or more of the parties gives written notice to the other(s) of its desire to modify or end the Accord.

Jay Vroom, CLA

D. Christopher Cathcart, CSPA

Allen James, RISE

Date: _____

Date: _____

Date: _____

Grant Bishop

From: Grant Bishop [gbishop@ag.state.wv.us]
Sent: Tuesday, July 10, 2007 2:19 PM
To: 'Frank Gasperini'
Subject: RE: 30 day comment- Pesticide fees

Frank, I received the ASPCRO Annual meeting subsidy check from RISE on May 31.

Thanks for your comments on the proposed rule changes. Your suggestions will be considered by WVDA prior to final filing and as required by our Legislature your comments will be submitted to the Legislative Rule Making Review Committee.

Grant Bishop
Assistant Director
Regulatory and Environmental Affairs Division
Pesticide Regulatory Programs
1900 Kanawha Boulevard, East
Charleston, WV 25305
Phone: (304) 558-2209 ext. 4200
Fax: (304) 558-2228
gbishop@ag.state.wv.us

From: Frank Gasperini [mailto:fgasperini@pestfacts.org]
Sent: Tuesday, July 10, 2007 1:39 PM
To: 'gbishop@ag.state.wv.us'
Subject: 30 day comment- Pesticide fees

Grant,

First--- thank you for the opportunity to comment on the fee increase proposals. I am attaching RISE comment to this e-mail, and sending written copies by snail-mail today. Our member's major concern was the overall magnitude in a single-step.

Second--- can you let me know if you received the RISE check for ASPCRO (\$1000)--- for the Annual Meeting? I asked accounting to send it direct, so did not get any notification if it was sent.

Thanks
Frank

PS--- IT HELPS IF I ACTUALLY ATTACH THE ATTACHMENTS!!!

Grant Bishop

From: BUG4COLLIE@aol.com
Sent: Friday, July 13, 2007 12:13 AM
To: gbishop@ag.state.wv.us
Subject: {Fraud?} comment

Dear Grant:

I asked Tim Russell and Dexter Owsley to contact Deputy Commissioner in my absence. I understand that Tim did speak with him and that when Dexter called, they indicated he should put his comments in writing and give them to you.

Due to the untimely death of Jim's mother I was unable to speak with Steve.

However I am home for a couple of days prior to leaving again for Ohio.

Please see to it that Deputy Commissioner Hannah receives a copy of this e mail.

As stated earlier, the association stand firm on what we would be willing to support. The fee increases for product registration, the private applicators fee going from three years to one, and the testing fee increase.

We supported the senate bill to have the funds directed to the departments pesticide program rather than the general fund.

We have tried hard to cooperate and help in every way possible.

It is my understanding that the fees would drop by \$5.00 only in one area.

Grant the pest control firms of this state have had a very slow and difficult season. This is certainly not the time to tack on all the additional fees on companies already struggling to stay in business. I feel confident that some will go out of business and others are barely hanging on.

It was and has been our desire to support the WVDA in any way we can and I believe we have demonstrated the same.

We discussed very small increases over an extended period of time. And perhaps starting next year with a small increase.

I hoped we could work this out so we would not have to oppose this legislation.

But we will not support this piece of legislation in that every item is an a burdensome expense to the small, middle and large sized companies in this state.

Please let us know your thoughts on this matter and how you wish to proceed.

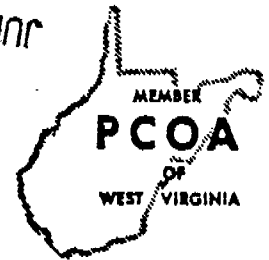
Respectfully,
Sue Spiroff
President,
PCOA/WV

Get a sneak peak of the all-new **MailScanner** has detected a possible fraud attempt from ["discover.aol.com"](http://discover.aol.com) claiming to be AOL.com.



PEST CONTROL OPERATORS ASSOCIATION
OF
WEST VIRGINIA

JUL 13 2007



WV Department of Agriculture
1900 Kanawha Blvd. E
Charleston, WV 25305-0190

July 9, 2007

Attn: Steve Hanna; Deputy Commissioner

Dear Mr. Hanna;

We of the Pest Control Operators Association of West Virginia (P.C.O.A.) would like to take this opportunity to go on record as to opposing any fee increases that will be submitted to the Legislature that will affect us.

I have expressed my personal concern with Grant Bishop in his office as will other members of our Association at the June 2007 Blitz.

We will appreciate any assistance that you can give us in this important matter which will increase our control of expenses to continue to operate our business.

Sincerely; 
Dexter Owsley, Secretary/Treasurer
DO/ro.

Grant Bishop

From: Grant Bishop [gbishop@ag.state.wv.us]
Sent: Friday, July 20, 2007 11:15 AM
To: 'BUG4COLLIE@aol.com'
Cc: Steve Hannah
Subject: RE: {Fraud?} comment

Sue,

The Pesticide Regulatory Programs is willing to work with the PCOA to ensure that fees are fair and equitable yet allow funding to support the vital function of regulating pesticides in accordance with state and federal mandated laws.

We will not be seeking an increase in the private, commercial and registered technician applicator fees. We will be seeking an increase in the product registration fee, testing fee and business license fees.

Grant Bishop
Assistant Director
Regulatory and Environmental Affairs Division
Pesticide Regulatory Programs
1900 Kanawha Boulevard, East
Charleston, WV 25305
Phone: (304) 558-2209 ext. 4200
Fax: (304) 558-2228
gbishop@ag.state.wv.us

From: BUG4COLLIE@aol.com [mailto:BUG4COLLIE@aol.com]
Sent: Friday, July 13, 2007 12:13 AM
To: gbishop@ag.state.wv.us
Subject: {Fraud?} comment

Dear Grant:

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Due to the untimely death of Jim's mother I was unable to speak with Steve. However I am home for a couple of days prior to leaving again for Ohio. Please see to it that Deputy Commissioner Hannah receives a copy of this e mail.

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We supported the senate bill to have the funds directed to the departments pesticide program rather than the general fund.

We have tried hard to cooperate and help in every way possible.

It is my understanding that the fees would drop by \$5.00 only in one area.

Grant the pest control firms of this state have had a very slow and difficult season. This is certainly not the time to tack on all the additional fees on companies already struggling to stay in business. I feel confident that some will go out of business and others are barely hanging on.

It was and has been our desire to support the WVDA in any way we can and I believe we have demonstrated the same.

We discussed very small increases over an extended period of time. And perhaps starting next year with a

small increase.

I hoped we could work this out so we would not have to oppose this legislation. But we will not support this piece of legislation in that every item is an a burdensome expense to the small, middle and large sized companies in this state.

Please let us know your thoughts on this matter and how you wish to proceed.

Respectfully,
Sue Spiroff
President,
PCOA/WV

Get a sneak peak of the all-new **MailScanner** has detected a possible fraud attempt from "discover.aol.com" claiming to be AOL.com.



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

Janet L. Fisher
Deputy Commissioner

Steve Hannah
Deputy Commissioner

July 20, 2007

Mr. Dexter Owsley
Pest Control Operators Association of West Virginia
P.O. Box 8484
South Charleston, WV 25303

Re: Your July 9, 2007 to Steve Hannah

Dear Dexter:

I am responding to your July 9, 2007 letter to Deputy Commissioner Steve Hannah regarding proposed fee increases. Your letter states that Pest Control Operators Association of WV (PCOA) is opposed to any fee increases that will be submitted to the Legislature that will affect your association. This is not consistent with comments I received from the President of PCOA, Sue Spiroff on July 13, 2007. She, in fact, says that the PCOA would be willing to support the testing fee increase. In addition, I spoke with Sue on July 16, 2007 and she said she would seek member approval for a slight increase in the business license fee in an upcoming board of directors meeting.

Thank you for your comments. The Pesticide Regulatory Programs is willing to work with the PCOA to ensure that fees are fair and equitable yet allow funding to support the vital function of regulating pesticides in accordance with state and federal mandated laws. Your letter will be provided to the Legislative Rule Making & Review Committee. Once again, thank you.

Sincerely,

A handwritten signature in cursive script that reads "Grant Bishop".

Grant Bishop
Assistant Director
Regulatory and Environmental Affairs Division
Pesticide Regulatory Programs

C: Sue Spiroff, President PCOA/WV
Steve Hannah, Deputy Commissioner

Grant Bishop

From: Bill Shanklin [bshanklin@dot.state.wv.us]
Sent: Wednesday, July 11, 2007 8:05 AM
To: Grant Bishop
Subject: RE: Pesticide Control Act ~ Proposed Fee Increases

Dear Mr. Bishop:

Thank you for the detailed information that you have provided. I am glad to see that the fees are going to essential services. The only thing I might suggest is to not wait 17 years to apply for increases, thus keeping the increases smaller and more reasonable; it would also give your agency more operating funds, in the long run. In the currently proposed increase, we, the customers and private applicators, will still be paying for the 'stiff' fee increases through the higher prices the dealers will need to charge us to offset their **650% fee increases** {your calculation}.

By the way, my calculations are correct, as are yours. I calculated the percent of the proposed/new fee compared to the old fee, and it is labeled as such in my chart. Your figures show the percent of the proposed increase compared to the old fee. Could this be an example of the old adage, 'figures don't lie, but liars do figure'? Even using your more conservative method of calculation, I for one, still contend the fee increases are too great for a single fee increase.

Once again, knowing how busy you must be, I do appreciate your taking time to respond to my complaint. Bill S.

From: Grant Bishop [mailto:gbishop@ag.state.wv.us]
Sent: Friday, July 06, 2007 2:29 PM
To: Bill Shanklin; hjohnson@ag.state.wv.us
Subject: RE: Pesticide Control Act ~ Proposed Fee Increases

Dear Mr. Shanklin,

The information you have referenced is from the first notice that went out. Since this notice we have dropped the fee increase for Private Applicators, we will not be seeking an increase in this fee and we have lowered the proposed fee for commercial applicator from \$25 to \$20. Since you are a private applicator you would not have received a copy of the most recent notice with this information (attached).

Respectfully, your calculations for % increase of existing fees are incorrect, they are:

Exams	100%
Pesticide Consultant	50%
Pesticide Products	50%
Pesticide Dealers	650%
Commercial Applicators	100%

Please keep in mind that with the exception of the pesticide product registration fee these fees have not increased in 17 years. In addition, our Federal funds have decreased by about 10% in this same time period and we have added staff and services. These fee increases will help to support the Pesticide Regulatory Programs operations including but not limited to certification, training, enforcement activities, groundwater protection, endangered species protection, laboratory support for pesticide residue sampling, waste and excess pesticide disposal, plastic

pesticide container recycling, pesticide product registration activities to ensure all products have been EPA registered, etc.

Please feel free to contact me for any additional information.

Grant Bishop
 Assistant Director
 Regulatory and Environmental Affairs Division
 Pesticide Regulatory Programs
 1900 Kanawha Boulevard, East
 Charleston, WV 25305
 Phone: (304) 558-2209 ext. 4200
 Fax: (304) 558-2228
gbishop@ag.state.wv.us

From: Bill Shanklin [mailto:bshanklin@dot.state.wv.us]
Sent: Tuesday, July 03, 2007 1:12 PM
To: gbishop@ag.state.wv.us; hjohnson@ag.state.wv.us
Subject: Pesticide Control Act ~ Proposed Fee Increases

Gentlemen:

I have received notice of proposed fee increases by the WV Dept of Agriculture. The said fee increases are summarized below, based upon the literature to me sent by your agency:

<u>Code</u>	<u>Function</u>	<u>Existing</u>	<u>Proposed</u>	<u>Incr/yr</u>	<u>%of</u>
<u>Existing</u>					
§61-12-2	Exams	\$10	\$20	\$10	200%
§61-12-3	Pesticide Consult	\$50	\$75	\$25	150%
§61-12-3	Pesticide Products	\$100	\$150	\$50	150%
§61-12-3	Pesticide Dealer	\$10	\$75	\$65	750%
§61-12-4	Comcl Applicators	\$10	\$25	\$15	250%
§61-12-4	Private Applicators	\$3.333/yr	\$10	\$6.667	300%

Just look at the percentage of the increases!! I am in total dis-belief; these increases are clearly exorbitant! Increases should be done incrementally and in amounts of say 5% to 10% every five to 10 years, **NOT hit everybody with increases of up to 750%!** What are you guys thinking of, anyway?

Where does this money go?

West Virginia is allegedly 'Open for Business'. However, I certainly doubt that this State will receive much of a business boost with the exorbitant fee increases that your agency is proposing!

Please mark me down as strongly opposing the proposed increase.

Bill

William M. Shanklin, Jr., P.E.
 Area Construction Engineer
 WV Division of Highways, District Five

Eastern Panhandle Construction Office {EPCO}

7/11/2007

July 13, 2007

Sent via e-mail

Grant Bishop
West Virginia Department of Agriculture
Regulatory & Environmental Affairs Division
1900 Kanawha Boulevard East
Charleston, WV 25305-0190

Re: Proposed Changes to Fee Structure for the Pesticide Control Act of 1990 (§ 61-12B)

Dear Mr. Bishop:

The Consumer Specialty Products Association (CSPA) appreciates the opportunity to comment on the Department of Agriculture's proposed changes to Section 61-12B of the Fee Structure of the Pesticide Control Act of 1990. This proposed change would, in pertinent part, increase the pesticide product registration fee from \$100 to \$150 for the more than 7,000 pesticides brands sold in West Virginia¹.

CSPA is a national nonprofit trade association representing approximately 260 companies engaged in the formulation, manufacture, distribution and sale of specialty products for consumer and institutional use. Our member companies produce a wide range of products including disinfectants, disinfectant cleaners, household insecticides, insect repellants, and rodenticides. These products provide important public health benefits to consumers and are vital in protecting against disease and infestation.

CSPA's member companies will be directly affected by the proposed increase in the pesticide registration fee and will be required to spend considerable resources to comply with the increase. In fact, some of CSPA's members register several hundred products each year; as a result, these companies would be forced to spend additional tens of thousands of dollars in order to register their products with the State.

CSPA Supports Dedication of Registration Fees to the Registration Program

CSPA supports reasonable pesticide registration fees that directly fund the Pesticide Regulatory Program and the product registration process and benefit all registrants equally. Since the proposed increase is dedicated to the Pesticide Regulatory Program and will be used to support registration related activities and staff; CSPA supports this proper allocation of fees collected from our industry. CSPA also urges the Department to ensure that these funds are not re-allocated at a later time to activities unrelated to the pesticide registration process or the Pesticide Regulatory Program.

CSPA Urges Review of the Reasonableness and Timing of the Registration Fee Increase

Increased pesticide fees will impose a substantial cost on CSPA's members who manufacture products that must be registered as pesticides with the U.S. EPA and the West Virginia

¹ *State Pesticide Programs 2001: A Report of Survey Information*, The Consumer Specialty Products Association.

Department of Agriculture. While a \$50 increase may not seem substantial, it represents a 50% increase over the current fee. In nearly every state, consumer and institutional pesticide products account for the overwhelming majority of all the products registered. Therefore, any fee increase *will be* a significant cost to CSPA's member companies. Pesticide registration fee increases are also particularly difficult for smaller companies to absorb into pre-established operating budgets. While, CSPA's members fully support registration fees that are reasonable, equitable, and dedicated to the registration process; CSPA encourages the Department of Agriculture to carefully evaluate the immediate funding needs of the Program and only increase the fee to meet those requirements.

Similarly, CSPA urges the Department to consider a phased-in process for raising the registration fee. For example, the pesticide registration fee might be raised to \$125 for the 2009 registration cycle and subsequently raised to \$150 for the 2010 registration cycle. This phased-in approach would ease the burden on smaller companies and allow them appropriate time to budget for and address the registration fee increase. Providing predictable and reasonable timeframes for fee increases will also help ensure compliance and protect against companies discontinuing certain product to the State.

Conclusion

Consumer and institutional pesticide products and antimicrobials play a vital role in protecting consumers from dangerous pests and biological contaminants. They help eliminate biological contaminants such as mold and bacteria that cause a variety of human health problems; and protect against disease carrying pests such as cockroaches and rodents. These products will be impacted by the proposed pesticide registration fee increase.

CSPA supports continued dedication of the pesticide registration fee to the Pesticide Regulatory Program and the product registration process. CSPA urges Department to review the level of the proposed registration fee increase to ensure that it is equitable and commensurate with the immediate needs of the program. Finally, CSPA urges the Department to consider a phase-in of the proposed registration fee increase to allow companies to have appropriate time to budget for the additional cost.

CSPA once again appreciates this opportunity to comment on this proposal, and hopes that our comments will be helpful in supporting the Pesticide Regulatory Program in West Virginia. CSPA looks forward to working with Department as this proposal is brought to the legislature for consideration in 2008. Please feel free to contact me at (202) 833-7328 if you have any questions about the positions expressed in these comments.

Respectfully Submitted,



Andrew R. Hackman
Manager, State Affairs Programs

cc: CSPA State Government Affairs Advisory Committee
Frank Gasperini, RISE (Responsible Industry for a Sound Environment)

Grant Bishop

From: Grant Bishop [gbishop@ag.state.wv.us]
Sent: Friday, July 13, 2007 11:32 AM
To: 'Andrew Hackman'
Subject: RE: - CSPA Comments on Proposed Changes to the Pesticide Control Act of 1990 (§ 61-12B)

Andy,

I have received your email and was able to open your attached letter of supporting comments. I want to thank you for your comments and assure you that your concerns and suggestions will be considered prior to Agency Approved Filing with the Office of the Secretary of State. In addition your letter will be provided to the Legislative Rule Making & Review Committee for review prior to the regular legislative session in 2008. Once again, thank you.

Grant Bishop
Assistant Director
Regulatory and Environmental Affairs Division
Pesticide Regulatory Programs
1900 Kanawha Boulevard, East
Charleston, WV 25305
Phone: (304) 558-2209 ext. 4200
Fax: (304) 558-2228
gbishop@ag.state.wv.us

From: Andrew Hackman [mailto:ahackman@cspa.org]
Sent: Friday, July 13, 2007 9:08 AM
To: gbishop@ag.state.wv.us
Cc: 'Frank Gasperini'
Subject: [SPAM] - CSPA Comments on Proposed Changes to the Pesticide Control Act of 1990 (§ 61-12B) - Sending mail server found on sbl.spamhaus.org

Dear Mr. Bishop:

Attached please find comments from the Consumer Specialty Products Association (CSPA) on the Department of Agriculture's proposed changes to Section 61-12B of the Fee Structure of the Pesticide Control Act of 1990. CSPA appreciates this opportunity to comment on this proposal, and hopes that our comments will be helpful in supporting the Pesticide Regulatory Program in West Virginia. CSPA looks forward to working with Department as this proposal is brought to the legislature for consideration in 2008. Please feel free to contact me at (202) 833-7328 if you have any questions about the positions expressed in these comments.

Please let me know if you have received these comments and are able to open the attachment.

Thank you,

Andy Hackman
Manager of State Affairs Programs
The Consumer Specialty Products Association
Phone: (202) 833-7328
Fax: (202) 872-8114
Cell: (703) 608-2326

7/13/2007



JN Berry, LLC
d/b/a Orkin

RECEIVED
RECEIVED
JUL - 5 2007
JUL - 5 2007

July 2, 2007

Mr. Grant Bishop
WV Dept. of Agriculture
Regulatory & Environmental Affairs Division
1900 Kanawha Blvd. East
Charleston, WV 25305-0190

Dear Mr. Bishop:

I received notice of the proposed changes to the fee structure, and would like to comment. I am not concerned with the raises in fees as they are still a minimal amount, even though the percentage of increase is very large.

However, I am opposed to the requirement to have my license number displayed on all of my vehicles. I own an Orkin Franchise and I am required by Orkin to use their decal system on all of my vehicles. There is not much room to add more and the business license will not help get any new customers. Furthermore, the cost for the new decals will far exceed the fee increases proposed.

Please pass along my comments to those who will be voting on the proposed changes.

Yours truly,

A handwritten signature in black ink, appearing to read "Jim Berry".

Jim Berry, Owner
Orkin Franchise #912



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

Janet L. Fisher
Deputy Commissioner

Steve Hannah
Deputy Commissioner

July 10, 2007

Mr. Jim Berry
J N Berry dba Orkin
P.O. Box 145
Parkersburg, WV 26101

In reply to: Your July 2, 2007 letter

Dear Mr. Berry:

Thank you for your comments on the notice of proposed rule changes. All comments and replies are forward to the Legislative Rule Making Review Committee.

I wanted to take this opportunity to comment on your opposition to displaying your company license number on your service vehicles. Although you already have your company name on your vehicles, by including your West Virginia licensed pesticide application business number it would help our inspector(s) distinguish your vehicle(s) from another possible unlicensed franchise from Ohio for example. Cities bordering other States such as Parkersburg often have unlicensed companies coming across the border applying pesticides without proper licensing or certification.

Once again, thank you for your comments.

Sincerely,

A handwritten signature in cursive script that reads "Grant Bishop".

Grant Bishop
Assistant Director
Regulatory and Environmental Affairs Division
Pesticide Regulatory Programs