

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

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OFFICE OF THE SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 349

SECTION § 64-9-2 (a), PASSED ON March 8, 2008

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2008


Authorized Signature

TITLE 61
LEGISLATIVE RULE
WEST VIRGINIA DEPARTMENT OF AGRICULTURE

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SERIES 12
FEE STRUCTURE FOR THE PESTICIDE CONTROL ACT OF 1990

OFFICE OF THE SECRETARY OF STATE

§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 -- April 8, 2008

1.4. Effective Date -- July 1, 2008

§61-12-2. Examinations.

2.1. The Commissioner shall assess each person taking an examination for a license, certification or certificate a fee of \$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 \$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 \$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 \$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 \$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.