

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #1

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MAY 14 11 19 AM '98

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF PUBLIC HEARING ON A PROPOSED RULE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative; 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 NEW RULE BEING PROPOSED: \_\_\_\_\_

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

DATE OF PUBLIC HEARING: June 25, 1998 TIME: 10:00 am

LOCATION OF PUBLIC HEARING: West Virginia Department of Agriculture  
Bldg. 2, John T. Johnson Conference Room  
4720 Brenda Lane  
Charleston, WV 25312

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: West Virginia Department of Agriculture  
Plant Industries Division, PRP  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0190

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\_\_\_\_\_  
Authorized Signature

3.60



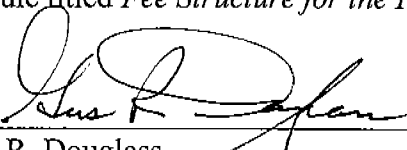
State of West Virginia  
**DEPARTMENT OF AGRICULTURE**  
Gus R. Douglass, Commissioner

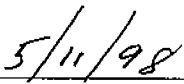
David E. Miller  
Deputy Commissioner

Janet L. Fisher  
Assistant Commissioner

AGENCY APPROVAL OF FILING

The West Virginia Department of Agriculture approves the filing of an amendment to Title 61 Series 12 rule titled *Fee Structure for the Pesticide Control Act of 1990*.

  
\_\_\_\_\_  
Gus R. Douglass, Commissioner of Agriculture

  
\_\_\_\_\_  
Date



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

David E. Miller  
Deputy Commissioner

Janet L. Fisher  
Assistant Commissioner

SUMMARY OF PROPOSED RULE

The West Virginia Department of Agriculture proposes to amend the Title 61 Series 12 rule titled *Fee Structure for the Pesticide Control Act of 1990* by increasing the fee for pesticide product registration. The amount of the increase is from the current fee of \$25.00 per product to \$75.00 per product. All other fees associated with the rule remain the same with no increase.



State of West Virginia

**DEPARTMENT OF AGRICULTURE**

**Gus R. Douglass, Commissioner**

**David E. Miller**  
Deputy Commissioner

**Janet L. Fisher**  
Assistant Commissioner

STATEMENT OF CIRCUMSTANCE

Title 61 Series 12 rule titled *Fee Structure for the Pesticide Control Act* is being amended to increase the revenue to the Department of Agriculture in order to provide better services to the citizens of the State. Due to increased demands upon the regulatory programs operated by the Department, an increase in staffing and an upgrade of salaries is warranted. Staff in the Department's Pesticide Regulatory Programs Unit are leaving due to a lack of competitiveness in salaries, both in state government and private industry. Some staff members of the Unit are even able to qualify for food stamps under the State's welfare system. Subsequently, measures must be taken to keep experienced staff and attract qualified staff. Further deterioration of the programs can affect the immediate preservation of the public health, safety or welfare.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

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

**Type of Rule:** X **Legislative**      **Interpretive**      **Procedural**

**Agency** West Virginia Department of Agriculture

**Address** David Miller Telephone 558-2201

1900 Kanawha Blvd., East

Charleston, WV 25305

**1. Effect of Proposed Rule**

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>	\$ 360,000	\$	\$ 360,000	\$ 360,000	\$ 360,000
<b>PERSONAL SERVICES</b>	286,463		286,463	286,463	286,463
<b>CURRENT EXPENSE</b>	60,037		60,037	70,037	70,037
<b>REPAIRS &amp; ALTERNATIONS</b>					
<b>EQUIPMENT</b>	20,000		20,000	10,000	10,000
<b>OTHER</b>					

**2. Explanation of above estimates:**

The above estimate reflects the planned expenditure of the increased revenue. Included is funding for six full time positions, support money and salary improvements for existing staff.

**3. Objectives of these rules:**

To raise funding to upgrade staff and improve services to the citizens of the State.

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

**4. Explanation of Overall Economic Impact of Proposed Rule.**

**A. Economic Impact on State Government.**

There will be no economic impact on state government. The fees are paid by manufacturers of pesticide products. The Pesticide Control Act of 1990 exempts governmental agencies from all fees.

**B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.**

There will be no impact on political subdivisions as they are similarly exempt from fees as stated in A above. The State's industries and specific citizens groups will also not be impacted. The proposed increase in fee is well within the average charged by other states. No increase in the cost of product is anticipated.

**C. Economic Impact on Citizens/Public at Large.**

No increase in the cost of pesticide products is expected as this increased fee is well within the average charged by other states. As such the market places regulated the price of products and not registration fees.

Date: May 5, 1998

Signature of Agency Head or Authorized Representative



FILED

MAY 14 11 21 AM '98

TITLE 61

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA LEGISLATIVE RULE  
WEST VIRGINIA DEPARTMENT OF AGRICULTURE  
CHAPTER 19-16A  
SERIES XII

Title: Fee Structure for the Pesticide Control Act of 1990

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**§61-12A-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 - West Virginia Code 19-16A-4

1.3. Filing Date -

1.4. Effective Date -

~~1.5. Repeal of Former rule - This legislative rule repeals and replaces WV61CRS12 "West Virginia Pesticide Law" effective May 19, 1961.~~

**§61-12A-2 Definitions**

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

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

3.1. Pesticide application business - an annual fee of \$50.00 shall be assessed for each pesticide application business engaged in the business of applying pesticides upon

the lands of another. Pesticide application business make 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 - an annual fee of \$50.00 shall be assessed 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 - an annual fee of \$10.00 shall be assessed 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.

#### **§61-12A-4 Classification and Fees of Applicator Certificates**

4.1. Commercial applicator - an annual fee of \$10.00 shall be assessed of 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 - a fee of \$10.00 shall be assessed 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 - an annual fee of \$10.00 shall be assessed of each person qualifying as a registered technician.

#### **§61-12A-5 Product Registration**

5.1. An annual registration fee of \$ ~~27~~5.00 per product shall be assessed of 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 must be registered but shall be exempt from annual registration fee, provided such 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.