

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

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #5

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

AGENCY: 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) SB269

SECTION 64-9-1(d), PASSED ON March 12, 1999

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: June 1, 1999


Authorized Signature

\$2.60



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

David E. Miller
Deputy Commissioner

Janet L. Fisher
Assistant Commissioner

PROMULGATION HISTORY FOR AMENDMENT TO
Title 61, Series 12, Fee Structure for the Pesticide Control Act of 1990

Proposed and filed for public hearing - May 14, 1999

Published in the State Register for public hearing - May 22, 1998

Public hearing advertised in the newspaper - June 4-11, 1998

Public hearing conducted - June 25, 1998

Agency approved rule filed - June 30, 1998

Legislative Rule-Making Review Committee approval - September 22, 1998

Modified rule filed as per LRMRC modification - September 30, 1998

Approved by the West Virginia Legislature - March 12, 1999

Final filing and adoption of authorized rule - April 28, 1999

FILED

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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

TITLE 61

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

Title: Fee Structure for the Pesticide Control Act of 1990

§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 - April 28, 1999

1.4. Effective Date - June 1, 1999

1.5. Repeal of Former rule - This legislative rule repeals and replaces WV61CRS12 "Fee Structure for the Pesticide Control Act of 1990" effective December 20, 1990.

§61-12A-2 General Examination Fee

2.1. Each person taking an examination for a license, certification or certificate shall pay 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 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 - each pesticide application business engaged in the business of applying pesticides upon the lands of another shall pay an annual fee of \$50.00. Pesticide application business making non solicited recommendations of pesticide products, made in the course of normal business practices, are exempt from a

pesticide consultant's license and fee.

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

3.3. Pesticide dealer - each person who sells, wholesales, distributes, offers or exposes for sale, exchanges or gives away any restricted use pesticide within or into this State shall pay an annual fee of \$50.00. Commercial delivery services are not considered distributors of pesticides.

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

4.1. Commercial applicator - 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 shall pay an annual fee of \$10.00.

4.2. Private applicator - a private applicator applying 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 shall pay a fee of \$10.00 every three years.

4.3. Registered technician - each person qualifying as a registered technician shall pay an annual fee of \$10.00.

§61-12A-5 Product Registration

5.1. Manufacturers of pesticide products shall pay an annual registration fee of \$ 50.00 per product for each pesticide which is manufactured, distributed, sold or offered for sale, delivered for transportation or transported in intrastate commerce or 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 for registration as an experimental use product with the State.

1150

61-12

H. B. 2511

1 Bill-Agricultu

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(By Delegates Hunt, Linch, Compton, Faircloth,
Jenkins and Riggs)

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[Introduced February 1, 1999; referred to the
Committee on Agriculture and Natural Resources
then the Judiciary.]

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10 A BILL to amend and reenact section one, article nine,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the commissioner of agriculture to
14 promulgate a legislative rule relating to the fee
15 structure for the pesticide control act of 1990.

16 *Be it enacted by the Legislature of West Virginia:*

17 That section one, article nine, chapter sixty-four of
18 the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted, to read
20 as follows:

21 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**

22 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

23 **§64-9-1. Commissioner of agriculture.**

2511

1 (a) The legislative rule filed in the state register
2 on the first day of August, one thousand nine hundred
3 ninety-seven, authorized under the authority of section
4 one, article twenty-nine, chapter nineteen of this code,
5 modified by the commissioner of agriculture to meet the
6 objections of the legislative rule-making review committee
7 and refiled in the state register on the twenty-fifth day
8 of November, one thousand nine hundred ninety-seven,
9 relating to the commissioner of agriculture (fish
10 processing, 61 CSR 23A), is authorized.

11 (b) The legislative rule filed in the state register
12 on the eighth day of July, one thousand nine hundred
13 ninety-seven, authorized under the authority of section
14 three, article two-b, chapter nineteen of this code,
15 modified by the commissioner of agriculture to meet the
16 objections of the legislative rule-making review committee
17 and refiled in the state register on the twenty-third day
18 of September, one thousand nine hundred ninety-seven,
19 relating to the commissioner of agriculture (inspection of
20 meat and poultry, 61 CSR 16), is authorized.

21 (c) The legislative rule filed in the state register
22 on the thirtieth day of July, one thousand nine hundred
23 ninety-eight, authorized under the authority of section

1 four, article sixteen-a, chapter nineteen, of this code,
2 modified by the commissioner of agriculture to meet the
3 objections of the legislative rule-making review committee
4 and refiled in the state register on the thirtieth day of
5 September, one thousand nine hundred ninety-eight, relating
6 to the commissioner of agriculture (fee structure for the
7 pesticide control act of 1990, 61 CSR 12), is authorized.

8

9 NOTE: The purpose of this bill is to authorize the
10 Commissioner of Agriculture to promulgate a legislative
11 rule relating to the Fee Structure for the Pesticide
12 Control Act of 1990.

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14 Strike-throughs indicate language that would be
15 stricken from the present law, and underscoring indicates
16 new language that would be added.