

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #7

FILED

1990 DEC 20 AM 9:50

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AN EMERGENCY RULE

AGENCY: Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: State Code 19-16A

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: XII 12

TITLE OF RULE BEING FILED AS AN EMERGENCY: Fee Structure
for the Pesticide Control Act of 1990.

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The passage of the Pesticide Control Act of 1990 repealed the two former pesticide laws and their existing regulations. This regulation is needed in order to implement the current law and continue the licensing of pesticide products, applicators and businesses into 1991.

Use Additional Sheets If Necessary.



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1990 DEC 20 AM 9:50

SUMMARY OF REGULATION 61-12 OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Fee Structure for the Pesticide Control Act of 1990

These regulations set a fee structure for the registration of pesticide products, certification of applicators and the licensing of businesses. In addition an examination fee is established to help cover the cost of educational and training materials. The annual fees to be established are \$50.00 per business, \$10.00 per applicator and \$25.00 per product.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

FILED

Rule Title: Fee Structure for the Pesticide Control Act of 1990 1991 DEC 28 11:50

Type of Rule: Legislative Interpretive Procedural
 OFFICE OF WEST VIRGINIA SECRETARY

Agency Department of Agriculture Address Guthrie Center
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	-0-	-0-	-0-	-0-	-0-
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

The rule does not change the fiscal needs of the current program. The rule only reestablishes a fee structure to replace the ones repealed in old pesticide laws (19-16A-§ 19-16B).

3. Objectives of these rules:

This rule establishes a fee structure to be used in renewing pesticide product registrations, pesticide applicator certifications and business licenses. A fee covering examination expenses is also established.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The impact on state government will be somewhat reduced in regards to the general revenue fund. Current fees generate approximately \$13,875 into the fund. The current fees will generate approximately \$41,250 to general revenue fund. Service expense for this rule will remain unchanged.

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

There is no impact on political subdivisions as all governmental entities are exempt from fees in the law.


Persons licensed as commercial applicators for restricted use pesticides will see an increase in annual license fees. The \$10.00 fee should not be burdensome and represents the only increase since establishment in 1975.

C. Economic Impact on Citizens/Public at Large.

It is believed the rule will have little or no impact on the citizens and public at large.

Date: 10-2-90

Signature of Agency Head or Authorized Representative



DATE: December 18, 1990

FILED

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

1990 DEC 20 AM 9:50

FROM: Robert E. Frame, Director Pesticides Division, WV Dept. of Agriculture
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

EMERGENCY RULE TITLE:

Fee Structure for Pesticide Control Act of 1990

1. Date of filing: December 20, 1990
2. Statutory authority for promulgating the emergency rule: State Code 19 - 16A
3. Date of filing of proposed legislative rule: 12-20-90
4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?
The emergency rule adopts new language to implement provisions of the West Virginia Pesticide Control Act of 1990
5. Has the same or similar emergency rule previously been filed and expired?
No
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
The passage of the Pesticide Control Act of 1990 repealed the two former pesticide laws and their existing regulations. This regulation is needed in order to implement the current law and continue the licensing of pesticide products, applicators and business into 1991.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

If the rule is not implemented all pesticide registrations and

licenses will expire December 31, 1990, with no provisions for renewal for 1991.

Title 61
EMERGENCY
WEST VIRGINIA LEGISLATIVE RULE
WEST VIRGINIA DEPARTMENT OF AGRICULTURE
CHAPTER 19-16A
SERIES XII

FILED

Title: Fee Structure for the Pesticide Control Act 1990 DEC 20 AM 8:50

OFFICE OF WEST VIRGINIA
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 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.

61-12-2. General Examination Fee

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.

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

3.1 Pesticide Applications 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 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 - 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.

EMERGENCY
Dept. of Agriculture
Legislative Rule, 19-16A
Series XII, Sec. 4.2

61-12-4. 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.

61-12-5. Product Registration

5.1 An annual registration fee of \$25.00 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 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 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.