

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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FILED

1999 DEC 20 AM 9:50

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Agriculture TITLE NUMBER: 61

CITE AUTHORITY WV Code 19-16A

AMENDMENT TO AN EXISTING RULE: YES NO

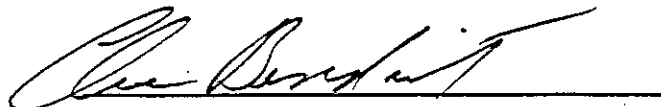
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: XII

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

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.



DATE: 12-19-90

FILED

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

1990 DEC 20 AM 9 50

FROM: Robert E. Frame, Director, Pesticide Division
West Virginia Department of Agriculture

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

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

2. a. Date filed in State Register with Notice of Hearing:
10-3-90
- b. What other notice, including advertising, did you give of the hearing?
Press release, letter to all pesticide product
registrants.

- c. Date of hearing (s): 11-14-90

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
No amendments, (Craig S. Carte and Ken Schwartz)
Attached _____ No comments received X
- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact)
December 20, 1990

- f. Name and phone number of agency person to contact for additional information:
Robert Frame, Director
Pesticide Division
348-2209

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.

October 3, 1990

b. Date of hearing: November 14, 1990

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

December 20, 1990

d. Attach findings and determinations and reasons:

Attached No comments received.

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

Title: Fee Structure for the Pesticide Control Act of 1990

61-12-1. 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 - October 3, 1990

1.4 Effective Date - October 3, 1990

1.5 Repeal of Former Rule - This legislative rule repeals and replaces WV61CRS12 "West Virginia Pesticide Law" effective May 19, 1981.

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.

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.



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE

State Capitol
Charleston, WV 25305

Cleve Benedict
Commissioner

M E M O R A N D U M

TO: The Record

FROM: Robert E. Frame, Director, Pesticide Division

SUBJECT: Public Hearing for Regulations Titled: Fee Structure for the Pesticide Control Act of 1990.

DATE: December 18, 1990

A public hearing was held November 14, 1990 at 10:00 a.m. in the conference room of the Guthrie Agricultural Center, to receive comment on the proposed regulations on Fee Structure for the Pesticide Control Act of 1990. A Notice of Public Hearing was filed with the Secretary of State's office on October 3, 1990, notice of the regulation and hearing date were sent to 650 businesses registering pesticide products and 250 businesses applying pesticide for hire. A general press release announcing the hearing was also made. A copy of the regulation was mailed to persons or parties making requests.

On November 14, 1990 at 10:00 a.m., two people were present for the hearing, neither of which desired to speak to the regulation. I spoke to each person on general questions they had of other aspects of the Pesticide Division activities. By 10:20 a.m. no one appeared to question or speak to the regulation and the hearing was adjourned. No written comments were received prior to the hearing or to date.