

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

FILED
1991 APR 30 PM 3:40
OFFICE OF THE
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Agriculture TITLE NUMBER: 61

CITE AUTHORITY Chapter 19-16A-4

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

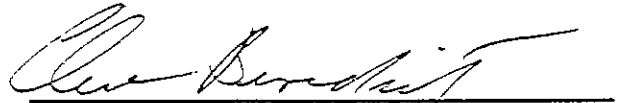
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

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

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

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



SUMMARY OF THE MODIFICATIONS TO THE
FEE STRUCTURE FOR THE PESTICIDE CONTROL ACT OF 1990
AS AUTHORIZED BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

All changes in this document are indicated by strike-outs and underlines. The modifications are all to make the rule more clear to the general public. There were no modifications that changed the content of the rule.

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OFFICE OF THE CLERK
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

61-12-1. 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 pay a fee of \$10.00 per examination session. This fee is for An examination session may consist of one or more examinations taken at on the same time day. This examination fee is to be used to help defray the costs of training materials, postage and processing of licenses, certifications 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 person. A pesticide application business making non solicited recommendations of pesticide products, made in the course of normal business practices, shall be exempt from a the consultant license and fee required under sub-section 3.2 of this rule.

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 persons.

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 are 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 shall pay an annual fee of \$10.00.

~~4.2 Private applicator -- a fee of \$10.00 shall be assessed every three years to maintain~~ Each person maintaining certification as a private applicator to apply restricted use pesticides for the purpose of producing any agricultural commodity on property owned or rented by hims 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 - an annual fee of \$10.00 shall be assessed of~~ Each person qualifying as a registered technician shall pay an annual fee of \$10.00.

61-12-5. Pesticide Product Registration

~~5.1 An annual registration fee of \$25.00 per product shall be assessed of~~ Every manufacturer of each pesticide products 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 shall pay an annual registration fee of \$25.00 per pesticide product.

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~~ are exempt from the 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 lthe State.



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WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-152, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

SECRETARY OF STATE

Senator William R. Wooton, Co-Chairman
Delegate David Grubb, Co-Chairman

Debra A. Graham, Counsel
Michael McThomas, Associate Counsel
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

April 15, 1991

TO: Ken Hechler, Secretary of State, State Register

TO: Commissioner Cleve Benedict
Department of Agriculture
State Capitol
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Fee Structure for Pesticide Control Act of 1990

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Robert Frame, Director
Pesticide Division