

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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1992 APR 23 PM 12:01
OFFICE OF REC. VIRGINIA
SECRETARY OF STATE

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

AGENCY: Agriculture TITLE NUMBER: 61

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: 12

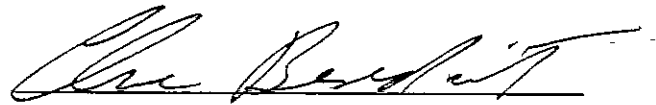
TITLE OF RULE BEING PROPOSED: Fee Structure for the Pesticide Control
Act of 1990

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB1

SECTION 64-9-1 (z), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: April 27, 1992



2.30

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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 pay a fee of \$10.00 per examination session. An examination session may consist of one or more examinations taken on the same 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 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 other 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 are not distributors of pesticides.

§61-12-4. 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 - 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 his 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.

§61-12-5. Pesticide Product Registration

5.1 Every manufacturer of pesticide products 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 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 the State.

1.5. Repeal of former rule. This legislative rule repeals and replaces WV 61 CRS 12 "West Virginia Pesticide Law" effective May 19, 1961. 61CSR12

TITLE 61
LEGISLATIVE RULE
DEPARTMENT OF AGRICULTURE

SERIES 12
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. -- W. Va. Code §19-16A-4

1.3. Filing Date. -- April 23, 1992

1.4. Effective Date. -- April 27, 1992

§61-12-2. 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. An examination session may consist of one or more examinations taken on the same 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 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 other 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 are not distributors of pesticides.

§61-12-4. 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 - 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 his 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.

§61-12-5. Pesticide Product Registration.

5.1. Every manufacturer of pesticide products 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 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 the State.

5/17

Bill Agriculture Pesticides *let 12*

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H. B. 4245

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the

Committee on Finance then the Judiciary)

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

16 Be it enacted by the Legislature of West Virginia:

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

20 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS
21 TO PROMULGATE LEGISLATIVE RULES.

22 §64-9-1. Commissioner of Agriculture.

23 (a) The legislative rules filed in the state register on the
24 sixth day of April, one thousand nine hundred eighty-three,

4245

1 relating to the commissioner of agriculture (schedule of charges
2 for inspection services: fruit), are authorized.

3 (b) The legislative rules filed in the state register on the
4 third day of August, one thousand nine hundred eighty-three,
5 relating to the commissioner of agriculture (licensing of
6 auctioneers), are authorized.

7 (c) The legislative rules filed in the state register on the
8 eighth day of February, one thousand nine hundred eighty-four,
9 relating to the commissioner of agriculture (conduct of beef
10 industry self-improvement assessment program referendum), are
11 authorized.

12 (d) The legislative rules filed in the state register on the
13 fourth day of June, one thousand nine hundred eighty-four,
14 relating to the commissioner of agriculture (feeding untreated
15 garbage to swine), are authorized.

16 (e) The legislative rules filed in the state register on the
17 fourth day of June, one thousand nine hundred eighty-four,
18 relating to the commissioner of agriculture (registration,
19 taxation and control of dogs), are authorized.

20 (f) The legislative rules filed in the state register on the
21 first day of November, one thousand nine hundred eighty-four,
22 relating to the commissioner of agriculture (public markets), are
23 authorized.

24 (g) The legislative rules filed in the state register on the
25 tenth day of September, one thousand nine hundred eighty-four,

1 relating to the commissioner of agriculture (noxious weed rules),
2 are authorized.

3 (h) The legislative rules filed in the state register on the
4 fourth day of June, one thousand nine hundred eighty-four,
5 relating to the commissioner of agriculture (animal disease
6 control), are authorized.

7 (i) The legislative rules filed in the state register on the
8 fifth day of January, one thousand nine hundred eighty-four,
9 relating to the commissioner of agriculture (use of certain
10 picloram products), are authorized.

11 (j) The legislative rules filed in the state register on the
12 eighth day of March, one thousand nine hundred eighty-five,
13 relating to the commissioner of agriculture (increasing certain
14 fees by rules and regulations), are authorized.

15 (k) The legislative rules filed in the state register on the
16 thirteenth day of January, one thousand nine hundred eighty-six,
17 modified by the commissioner of agriculture to meet the
18 objections of the legislative rule-making review committee and
19 refiled in the state register on the thirty-first day of January,
20 one thousand nine hundred eighty-six, relating to the
21 commissioner of agriculture (licensing of livestock dealers), are
22 authorized.

23 (l) The legislative rules filed in the state register on the
24 eighteenth day of June, one thousand nine hundred eighty-six,
25 modified by the commissioner of agriculture to meet the

1 objections of the legislative rule-making review committee and
2 refiled in the state register on the fifth day of January, one
3 thousand nine hundred eighty-seven, relating to the commissioner
4 of agriculture (West Virginia pesticide use and application act),
5 are authorized.

6 (m) The legislative rules filed in the state register on the
7 eighteenth day of August, one thousand nine hundred eighty-six,
8 modified by the director of the division of forestry of the
9 department of agriculture to meet the objections of the
10 legislative rule-making review committee and refiled in the state
11 register on the fifth day of January, one thousand nine hundred
12 eighty-seven, relating to the director of the division of
13 forestry of the department of agriculture (ginseng), are
14 authorized.

15 (n) The legislative rules filed in the state register on the
16 tenth day of April, one thousand nine hundred eighty-seven,
17 relating to the commissioner of agriculture (schedule of charges
18 for inspection services: fruit), are authorized.

19 (o) The legislative rules filed in the state register on the
20 thirteenth day of August, one thousand nine hundred eighty-seven,
21 modified by the commissioner of agriculture to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the eighth day of September, one
24 thousand nine hundred eighty-seven, relating to the commissioner
25 of agriculture (animal disease control), are authorized.

1 (p) The legislative rules filed in the state register on the
2 fifteenth day of September, one thousand nine hundred
3 eighty-eight, relating to the commissioner of agriculture (sale
4 and distribution of commercial fertilizer), are authorized.

5 (q) The legislative rules filed in the state register on the
6 fifteenth day of September, one thousand nine hundred
7 eighty-eight, modified by the commissioner of agriculture to meet
8 the objections of the legislative rule-making review committee
9 and refiled in the state register on the twenty-sixth day of
10 October, one thousand nine hundred eighty-eight, relating to the
11 commissioner of agriculture (animal disease control), are
12 authorized.

13 (r) The legislative rules filed in the state register on the
14 fifteenth day of May, one thousand nine hundred eighty-nine,
15 modified by the commissioner of agriculture to meet the
16 objections of the legislative rule-making review committee and
17 refiled in the state register on the twenty-first day of August,
18 one thousand nine hundred eighty-nine, relating to the
19 commissioner of agriculture (production of milk and cream for
20 manufacturing purposes), are authorized.

21 (s) The legislative rules filed in the state register on the
22 seventh day of August, one thousand nine hundred eighty-nine,
23 modified by the commissioner of agriculture to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the twenty-third day of October,

1 one thousand nine hundred eighty-nine, relating to the
2 commissioner of agriculture (animal disease control), are
3 authorized.

4 (t) The legislative rules filed in the state register on the
5 tenth day of August, one thousand nine hundred ninety, modified
6 by the commissioner of agriculture to meet the objections of the
7 legislative rule-making review committee and refiled in the state
8 register on the fifth day of October, one thousand nine hundred
9 ninety, relating to the commissioner of agriculture (meat
10 inspection), are authorized.

11 (u) The legislative rules filed in the state register on the
12 tenth day of August, one thousand nine hundred ninety, modified
13 by the commissioner of agriculture to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the third day of October, one thousand nine hundred
16 ninety, relating to the commissioner of agriculture (agricultural
17 liming materials), are authorized.

18 (v) The legislative rules filed in the state register on the
19 tenth day of August, one thousand nine hundred ninety, modified
20 by the commissioner of agriculture to meet the objections of the
21 legislative rule-making review committee and refiled in the state
22 register on the third day of October, one thousand nine hundred
23 ninety, relating to the commissioner of agriculture (public
24 markets), are authorized.

1 (w) The legislative rules filed in the state register on the
2 nineteenth day of September, one thousand nine hundred ninety,
3 modified by the commissioner of agriculture to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the ninth day of November, one
6 thousand nine hundred ninety, relating to the commissioner of
7 agriculture (animal disease control), are authorized.

8 (x) The legislative rules filed in the state register on the
9 twentieth day of December, one thousand nine hundred ninety,
10 modified by the commissioner of agriculture to meet the
11 objections of the legislative rule-making review committee and
12 refiled in the state register on the thirtieth day of April, one
13 thousand nine hundred ninety-one, relating to the commissioner of
14 agriculture (fee structure for the pesticide control act of 1990)
15 are authorized.

16

17 NOTE: The purpose of this bill is to authorize the
18 Commissioner of Agriculture to promulgate legislative rules
19 relating to the fee structure for the Pesticide Control Act of
20 1990.

21

22 Strike-throughs indicate language that would be stricken from
23 the present law, and underscoring indicates new language that
24 would be added.



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Deputy Secretary of State

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Director, Corporations

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Executive Assistant

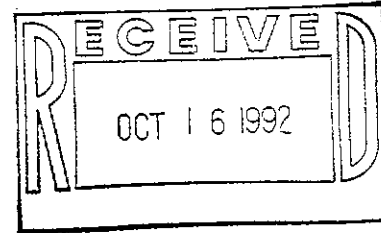
STATE OF WEST VIRGINIA

SECRETARY OF STATE

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(Plus all the volunteer
help we can get)

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TO: Barbara Smith

AGENCY: Department of Agriculture

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 15, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 112 TITLE: 6A Department of Agriculture

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Barbara J. Smith

TITLE OF PERSON SIGNING: Director of Compliance

DATE: 11-13-92 (repeal clause?)

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.