

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

FILED  
1990 OCT 3 11 207

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Procedural; CITE AUTHORITY State Code 19-16A-4(k)

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 E

TITLE OF RULE BEING PROPOSED: Registry of Persons with Health  
Sensitivity to Pesticide Drift.

DATE OF PUBLIC HEARING: November 14, 1990 TIME: 1:00 p.m.

LOCATION OF PUBLIC HEARING: West Virginia Department of Agriculture  
Building 2 - Conference Room  
Guthrie Center  
Charleston, WV 25312

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: WV Dept. of Agriculture  
Pesticide Division

The Department requests that persons wishing to make  
comments at the hearing make an effort to submit written  
comments in order to facilitate the review of these comments.

Charleston, WV 25305

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Registry of Persons with Health Sensitivity to Pesticide Drift

Type of Rule: Legislative Interpretive  Procedural

Agency Department of Agriculture Address Capitol Building  
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 135.00	\$ 0	\$135.00	\$ 135.00	\$ 135.00
Personal Services					
Current Expense	\$135.00	0	\$135.00	\$135.00	\$135.00
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

The estimated cost increase is for postage in mailing application forms to health sensitive registrants and lists to pesticide businesses.

3. Objectives of these rules:

To provide a mechanism whereby persons with a health sensitivity to pesticides can make their problem know to pesticide application businesses. The registry will help provide relief to persons with documented allergies, respiratory or sensitivity problems to pesticides that may drift to their property.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

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

The registry can provide relief to persons sensitive to pesticides and help reduce liability problems for application businesses by giving them advance notice of potential problem areas.

C. Economic Impact on Citizens/Public at Large.

None

Date: 10-2-90

Signature of Agency Head or Authorized Representative

*Chris Bensch*

DATE: October 2, 1990  
TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE  
FROM: Robert E. Frame, Director, Pesticide Division, WV Dept. of Agriculture  
EMERGENCY RULE TITLE: Registry of Persons with Health Sensitivity to Pesticide Drift.

1. Date of filing: October 3, 1990

2. Statutory authority for promulgating the emergency rule: W. Va. Code 19-16A-4 (k)

3. Date of filing of proposed legislative rule: \_\_\_\_\_

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

The rule adopts new language

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 rule is needed to provide a mechanism whereby persons with a health sensitivity to pesticides can make their plight known to companies applying pesticides that may drift to their homes and injure their health.

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.

None

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

Persons with breathing or allergy problems related to pesticide drift need a mechanism to let pesticide application businesses know of these problems. The registry will provide those businesses with a list of sensitive people so that appropriate precautions can be made when pesticides are applied near their homes and drift could result to the health sensitive individual.

SUMMARY OF PROCEDURAL RULE 61-12E

REGISTRY OF PERSONS WITH  
HEALTH SENSITIVITY TO PESTICIDE DRIFT

These regulations establish a central registry for persons with a medically documented sensitivity to pesticides. The names and addresses of the persons on the registry will be mailed to all pesticide application businesses. The availability of the list can help reduce harm to persons with health sensitivity to pesticide drift. Businesses can lessen their liability by knowing where persons with health problems reside.

EMERGENCY  
WEST VIRGINIA PROCEDURAL RULE  
WEST VIRGINIA DEPARTMENT OF AGRICULTURE

Title: Registry of Persons with Health Sensitivity to Pesticide  
Drift.

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Section 1. General

1.1 Scope - This procedural rule establishes a registry of West Virginia residents with a documented health sensitivity to pesticide sprays that may drift to their property during application.

1.2 Authority - W. Va. Code 19-16A-6(k)

1.3 Filing Date - October 3, 1990

1.4 Effective Date - October 3, 1990

Section 2. Operation

2.1 The Pesticide Division shall prepare from information provided by an applicant for registration a registry of persons with a documented health sensitivity to pesticides.

2.2 The Pesticide Division shall distribute the registry of persons with health sensitivity to pesticide application business for voluntary notification.

2.1.A Distribution of the list shall occur annually during March or upon the initial licensing of a pesticide application business.

2.2.B An updated list shall be distributed every 4 months or more often if determined necessary by the Commissioner.

EMERGENCY  
Dept. of Agriculture  
Proc. Rule, 19-16A  
Series XII, Sec. 3

Section 3. Requirements for Registration

3.1 Upon request persons meeting the following requirements shall be placed on the registry for health sensitivity to pesticide drift.

3.1.A Persons with a pesticide sensitivity documented by a valid certificate from a physician indicating the person's pesticide sensitivity.

3.1.B Persons with a condition or ailment documented by a physician certification indicating they should not be exposed to pesticide drift.

3.2 A person qualifying for registration according to 3.1 of this regulation:

3.2.A may apply to the Department at any time for registration.

3.2.B shall immediately notify the Department of any address change;

3.2.C registration and annual renewal shall be on a form provided by the Department. A renewal form will be sent to all persons on the registry in January of each year.

3.3 A physician certifying health sensitivity of a registrant shall be either an immunologist, allergist, respiratory pulmonary specialist, or a physician of similar qualification.