

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

FILED

APR 3 11 12 AM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

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: 12J

TITLE OF RULE BEING PROPOSED: Integrated Pest Management Programs in Schools
and Day Care Centers

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

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill No. 162

SECTION 64-9-1(f), PASSED ON March 9, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: June 7, 1996



AUTHORIZED SIGNATURE

y.80

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(Plus all the volunteer
help we can get)

March 12, 1996

Robert G Morris
Agriculture
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SB 162 authorizing, **Title 61, Series 12J, Integrated Pest Management Program in Schools & Day Care Centers** passed the Legislature on **March 9, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **SB 162** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 162 Section 64-9-1(f)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division

FILED

APR 3 11 12 AM '96

TITLE 61
LEGISLATIVE RULES
WEST VIRGINIA DEPARTMENT OF AGRICULTURE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 12J

INTEGRATED PEST MANAGEMENT PROGRAMS IN SCHOOLS
AND DAY CARE CENTERS

61-12J-1 General

1.1. Scope - This legislative rule establishes procedures to provide for integrated pest management programs in schools and day care centers.

1.2. Authority - WV Code §19-16A-4

1.3. Filing Date - April 3, 1996

1.4. Effective Date - June 7, 1996

61-12J-2 Definitions

2.1. "Consumer information sheet" means a fact sheet that is designed for distribution to consumers and contains information on the toxicity of the end use concentration of a pesticide product. In the case of ready-to-use products, "consumer information sheets" may be the same as "material safety data sheets."

2.2. "Crack and crevice treatment" means the application of small amounts of insecticides into openings commonly found at expansion joints, between different elements of construction, and between equipment and floors or walls.

2.3. "Broadcast" means the application of pesticides over an area such as a lawn, field, room, crawl space, or other such surface. The term does not include crack and crevice or spot applications made to selected plants, insects, soil, or surfaces.

2.4. "Day care center" means a completed structure utilized as a facility for the care of seven or more children on a non-residential basis.

2.5. "Least hazardous materials" means the use of pest control practices and methods, including the use of chemicals in a manner to cause the least practical exposure to the occupants of a structure. The "least hazardous materials" takes into account the pest control method, toxicity of the product and the exposure to the occupants to the practice or methods employed to control pests, such as the use of a non-volatile material formulation and/or application method as opposed to a broadcast application that creates potential for exposure.

2.6. "Material safety data sheet" means a fact sheet that is designed for distribution to chemical manufacturing plant workers and refers to the toxicity of the concentrate of a pesticide product. In the case of ready-to-use products, "material safety data sheets" may be the same as "consumer information sheets."

2.7. "Pesticide" means, for the purposes of this rule, the use of insecticides and herbicides that are sprayed into or around a building and the adjacent play grounds utilized by a school or day care center.

2.8. "School" means a completed structure utilized as a public or private school, grades kindergarten through twelfth grade.

2.9. "Re-entry period" means the time that must elapse from the completion of a pesticide application until students or school and day care employees may enter the building to conduct scheduled activities.

2.10. "Space treatment" means the application of a pesticide that is intended to discharge the pesticide into the air throughout an entire room or area.

2.11. "Spot treatment" means the application of a pesticide to a limited area where pests are likely to occur, such as floors, walls, bases or the underside of equipment, turf or ground. A "spot" shall not be more than 2 square feet and shall not be more than 20 percent of a surface area.

61-12J-3 Integrated Pest Management

3.1. Integrated Pest Management is a system of controlling pests in which pests are identified, action thresholds are considered, all possible control options are evaluated and selected controls are implemented. Control options, which include biological, chemical, cultural, manual, and mechanical methods, are used to prevent or remedy unacceptable pest activity or damage. Choice of control options is based on effectiveness, environmental impact, site characteristics, worker/public health and safety, and economics. The goal of an integrated pest management system is to manage pests and the environment to balance benefits of control, costs, public health and environmental quality. Integrated pest management takes into account site-specific factors and takes advantage of all pest management options.

3.2. Schools and day care centers covered by this rule shall not apply pesticides unless monitoring as specified in Section 6 of this rule indicates pests are present.

61-12J-4 Integrated Pest Management Programs for Schools

4.1. All schools covered by this rule shall develop and maintain an integrated pest management program utilizing the best management practices contained in "Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices," published by the West Virginia Department of Agriculture.

4.2. At a minimum, the integrated pest management program for a school shall contain:

4.2.1. a policy statement;

4.2.2. pest management objectives;

4.2.3. education of the building occupants in integrated pest management practices;

4.2.4. inspection activities;

4.2.5. monitoring activities; and

4.2.6. an evaluation of the integrated pest management strategies in practice.

4.3. At the inception of the integrated pest management program, the school should make a survey of the facility and record the structural maintenance, cultural or sanitation practices that need correcting in order to insure the success of an integrated pest management program. This record should be updated periodically with the items corrected noted on the record with the date of correction.

4.4. Pest management objectives and pest threshold levels will vary for each school facility and the occupants of the facility. In order to provide a cross representation of input to the integrated pest management program from the school's occupants and the school community, the Local School Improvement Council as created by West Virginia Code §18-5A-2 may comment on the school's integrated pest management plan.

4.5. Schools covered by this rule shall file completed integrated pest management plans with the Commissioner for compliance inspection. When any changes are made to the program, they shall submit the revised integrated pest management plan to the Commissioner prior to the initiation of the new plan.

4.6. Schools shall maintain an Integrated Pest Management file for each school facility. The Integrated Pest Management file shall contain at a minimum the following items or documents:

4.6.1. the adopted integrated pest management plan;

4.6.2. monitoring diagrams of the facility;

4.6.3. treatment records of the facility, including a floorplan indicating treatment locations;

4.6.4. labels of pesticide products used at the facility; and

4.6.5. copies of consumer information sheets when available and material safety data sheets.

4.7. Upon request, schools covered by this rule shall provide copies of pesticide labels and consumer information sheets when available or material safety data sheets in the absence of consumer information sheets to employees of the school facility or to parents or legal guardians of the school's students.

4.8. Exceptions - Areas of schools, such as but not limited to greenhouses, nursery plots or agricultural field plantings, utilized for vocational agricultural plots or research are exempt from the requirements of this rule.

61-12J-5 Integrated Pest Management Programs for Day Care Centers

5.1. All day care centers covered by this rule shall develop and maintain an integrated pest management program utilizing the best management practices contained in "Integrated Pest Management in Schools and Other Public Buildings, Best Management Practices" published by the West Virginia Department of Agriculture.

5.2. At a minimum, the integrated pest management program for a day care center shall contain:

5.2.1. a policy statement;

5.2.2. pest management objectives;

5.2.3. education of the building occupants in integrated pest management practices;

5.2.4. inspection activities;

5.2.5. monitoring activities; and

5.2.5. an evaluation of the integrated pest management strategies in practice.

5.3. At the inception of the integrated pest management program, the day care center should make a survey of the facility and record the structural maintenance, cultural or sanitation practices that need correcting in order to insure the success of an integrated pest management program. This record should be updated periodically with the items corrected noted on the record with the date of correction.

5.4. All day care centers covered by this rule shall file completed integrated pest management plans with the Commissioner for compliance inspection. When any changes are made to the program, they shall submit the revised integrated pest management plan to the Commissioner prior to the initiation of the new plan.

5.5. Day care center operators shall maintain an Integrated Pest Management file for each facility in operation. The Integrated Pest Management file shall contain at a minimum the following items or documents:

5.5.1. the approved integrated pest management plan;

5.5.2. monitoring diagrams for the facility;

5.5.3. treatment records for the facility, including diagrams of treatment locations;

5.5.4. labels of pesticide products used at the facility; and

5.5.5. copies of consumer information sheets when available and material safety data sheets for the products used at the facility.

5.6. Day care centers covered by this rule shall provide copies of pesticide labels and consumer information sheets when available or material safety data sheets in the absence of consumer information sheets to a child's parents or legal guardians upon request.

61-12J-6 Monitoring for Pest Infestations

6.1. Monitoring Program

6.1.1. Each school and day care center shall have a monitoring program. The monitoring program shall include inspecting areas of the facility for pest evidence, entry points, food, water and harborage sites, and estimating pest population levels. Each school and day care center shall evaluate the information gained through monitoring to determine whether the

action threshold has been exceeded and what can be done in the way of prevention.

6.1.2. Each school and day care center shall conduct a monitoring program in suspect areas of their facility on an ongoing basis. Sticky traps designed for cockroaches and other crawling insects shall be placed along wall/floor junctions, on vertical surfaces, behind appliances, in closets, cabinets and shelves, and in other areas where insects have been seen.

6.1.3. Components of the monitoring program shall include:

6.1.3.a. A floorplan of the facility showing the number and location of each trap;

6.1.3.b. Periodic inspection of each trap at no greater than monthly intervals with the following information recorded on a Pest Surveillance Data Sheet:

6.1.3.b.A. The trap number and its location;

6.1.3.b.B. The date checked;

6.1.3.b.C. The trap's condition (either OK or needs to be replaced);

6.1.3.b.D. The numbers and kinds of insects, arthropods, rodents or other pests trapped;

6.1.3.b.E. Pest damage or other evidence of pests such as feces, cast skins, or rub marks;

6.1.3.b.F. Any need for pest management; and

6.1.3.b.G. The name of the person performing the monitoring activity;

6.1.3.c. Replacement of the traps when the adhesive is no longer tacky or when the trap is full, whichever comes first; and

6.1.3.d. Removal and disposition of the trap after catch numbers are recorded and identification is confirmed, to prevent counting specimens more than one time and to prevent their use as food by other insects or rodents.

6.2. When monitoring indicates the level of pest infestation meets or exceeds the threshold levels established for the facility and pest type, the progressive levels of pest control techniques and chemical applications as outlined in Section 7 of this rule shall be followed in controlling the pest population. If monitoring indicates that pest populations do not meet or exceed threshold levels, no pesticides shall be applied.

61-12J-7 Use of the Least Hazardous Materials - Re-entry Intervals

7.1. In an integrated pest management program, persons responsible for pest management should evaluate all possible control options. Control options range from non-chemical methods to least hazardous pesticides to pesticides with a higher degree of risk to human health. In keeping with the legislative mandate for integrated pest management, the pest control contractor shall, after monitoring for pest infestations, proceed in controlling pests using the least hazardous method that is both practical and effective as outlined in this section.

7.1.1. Level 1 - Non-chemical Control Methods

7.1.1.a. Pest-preventive measures should be incorporated into existing structures. These preventive measures reduce the need for pesticide applications, and include sanitation, such structural repairs as sealing cracks, and such physical and mechanical controls as screens, traps, and air doors. A school or day care center shall consult the West Virginia Department of Agriculture's best management practices document "Integrated Pest Management in Schools and Other Public Institutions, Best Management Practices" for integrated pest management strategies for specific sites. Every facility will experience slightly different combinations of pests.

7.1.2. Level 2 - Least Hazardous Materials

7.1.2.a. If non-chemical pest management methods alone are ineffective or impractical, it may be necessary for a

school or day care center to incorporate a pesticide into the integrated pest management program. Although all pesticides are inherently toxic, there are a number of pesticide materials that are determined to be of low impact to occupants because of their organic or biological nature, low toxicity, relative non-volatility, and/or low or non-existent exposure to the occupants due to the manner in which they are applied as baits, gels or dusts into cracks and crevices or wall voids.

7.1.2.b. The least hazardous pesticides are those with a Caution signal word (EPA toxicity categories III and IV) such as botanical pesticides--pyrethrins and the synthetic pyrethroids; the inorganic insecticides--boric acid, disodium octaborate tetrahydrate, silica gel, and diatomaceous earth; insecticidal soaps; insect growth regulators; biological control agents . fungi, bacteria, nematodes; baits in tamper-resistant containers or for crack and crevice or void placement only.

7.1.2.c. There is no re-entry interval for these products due to their level of safety.

7.1.3. Level 3 - Crack and Crevice and Spot Treatments

7.1.3.a. Schools and day care centers shall apply products with an EPA Caution signal word but not listed under Level 2 as crack and crevice or spot treatments.

7.1.3.b. Products applied by these methods provide for reduced, minimal use of liquid materials that may present some, but limited volatility of the pesticide applied. Exposure to occupants is minimal.

7.1.3.c. The re-entry interval for which students and employees shall remain out of the treated area of the facility after the conclusion of treatment is four hours or the time period specified on the pesticide label as registered by the United States Environmental Protection Agency, which ever is greater.

7.1.4. Level 4 - Broadcast Applications and Space Treatments

7.1.4.a. Products with a Caution signal word applied by broadcast application or as a space treatment or products with

a Warning or Danger signal word applied by any application method.

7.1.4.b. Products applied by these methods create the greatest opportunities for exposure at the time of application due to drift or volatility. However products applied as fogging agents are usually of low mammalian toxicity and pose little exposure after label re-entry times specified by the United States Environmental Protection Agency.

7.1.4.c. The re-entry interval for which students and employees are to remain out of the treated area of the facility after the conclusion of treatment is eight hours or the period specified on the label of the pesticide product as registered by the United States Environmental Protection Agency, which ever is greater, except when the air in the treated area can be purged by the heating, cooling and ventilation system, the period of reentry shall be 4 hours or the period specified on the label of the pesticide product as registered by the United States Environmental Protection Agency, which ever is greater.

61-12J-8 Prior Notification

8.1. Employees of Schools and Day Care Centers

8.1.1. All schools and day care centers shall notify their employees at least 24 hours in advance of the application of pesticides in levels 3 and 4 as detailed in Section 4 of this rule.

8.1.2. At the beginning of the school year, school administrators shall notify their employees through routine announcement or individual notice to each employee of a facility where pesticides are to be applied. The notice shall instruct the employee of the location of posting of the treatment schedule and notification of any necessary unscheduled treatments. School administrators shall also notify their employees of the treatment schedule at faculty senate meetings.

8.2. Parents or Legal Guardians of Students of Schools

8.2.1. At the beginning of each school year, or at the time a student is enrolled into the school, school administrators shall notify the parents or legal guardians of the right to be

informed of the application of level 3 or 4 pesticides as detailed in Section 4 of this rule.

8.2.2. The notification to the parents or legal guardians shall contain a registration form, whereby the parent or legal guardian can request to be notified by the school administrator of the application of level 3 or 4 pesticides.

8.2.3. The administrator of the school shall provide notification to the parent or legal guardian requesting notification at least 24 hours in advance of the application of level 3 or 4 pesticides.

8.3. Parents or Legal Guardians of Children in Day Care Centers

8.3.1. At the time a day care center operator signs a contract or other agreement for the care of a child, the operator shall notify the parent or legal guardian of the right to be informed of the application of a level 3 or 4 pesticide as detailed in Section 4 of this rule.

8.3.2. The day care center operator shall post and make available to the parent or legal guardian, notification of the application of level 3 or 4 pesticides at least 24 hours in advance of any pesticide application. The notification shall be placed at the register where the parent or legal guardian signs the child into and out of the day care center.

61-12J-9 Application of Pesticides to Schools and Day Care Centers

9.1. Pesticide applications shall not be made in the presence of students, children in day care centers or employees of schools and day care centers, except for school or day care center employees who are certified pesticide applicators. Pesticides may be applied to a localized area of infestation when students, children or school and day care center employees are present if the infestation causes an imminent threat of bodily harm.

9.2. All pest control methods or practices shall be conducted in conformance to the Use of the Least Hazardous Materials as outlined in Section 7 of this rule.

9.3. All pesticide applications made to schools and day care centers shall be applied in accordance with the integrated pest management plan filed with the Commissioner.

9.4. All pesticide applications shall only be made by certified commercial pesticide applicators, certified public applicators, or registered technicians under the supervision of a certified pesticide applicator as outlined in West Virginia Department of Agriculture Certified Pesticide Applicator Rules, 61 CSR 12A.

9.5. The commissioner shall require all certified pesticide applicators applying pesticides or supervising the application of pesticides, or persons providing services as a consultant to complete a specialized training program in urban integrated pest management.

9.5.1. Any specialized urban integrated pest management programs not offered by the commissioner must be approved by the commissioner.

9.5.2. Pesticide applicators certified in the General Pest Control sub-category as detailed in 61 CSR 12A Certified Pesticide Applicator Rules who complete the specialized training program in urban integrated pest management prior to September 1, 1996 shall be determined to be certified in Urban Integrated Pest Management.

9.5.3. After September 1, 1996, the commissioner shall require all certified pesticide applicators applying pesticides or supervising the application of pesticides in a school or day care center, or persons providing services as a consultant to schools and day care centers to be examined and certified in the sub categories of General Pest Control and Urban Integrated Pest Management as outlined in 61 CSR 12A Certified Pesticide Applicator Rules.

61-12J-10 Record Keeping

10.1. Schools and day care centers covered by this rule shall keep for a period of two years all documents required to be in the Integrated Pest Management Files as detailed in Section 4.6 and Section 5.5, respectively, of this rule.

10.2. The records required for the Integrated Pest Management of schools and day care centers shall be made available upon request to the commissioner to verify the maintenance of the integrated pest management program.

61-12J-11 Implementation

11.1. The commissioner shall make available to all schools and day care centers a copy of the integrated pest management materials titled "Integrated Pest Management in School and other Public Institutions, Best Management Practices" and "Integrated Pest Management in Schools and Other Public Institutions, A Guide for Commercial Applicators".

11.2. All schools and day care centers covered by this rule shall submit an initial draft of their integrated pest management plans to the commissioner for review by February 1, 1996. The commissioner shall review the plans and offer comments when they appear warranted.

11.3. All schools and day care centers covered by this rule shall submit their completed integrated pest management program to the commissioner by August 1, 1996.

11.4. All pesticide applications made to schools and day care centers shall be made in accordance with this rule and the integrated pest management programs on file with the commissioner after September 1, 1996.

SENATE BILL NO. 237

(By Senators Ross, Anderson, Boley,
Buckalew, Grubb and Macnaughtan)

[Introduced January 29, 1996; referred
to the Committee on

Agriculture;
Finance;
the Judiciary

6-1-125

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8
9

10 A BILL to amend and reenact section one, article nine,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the commissioner of agriculture to
14 promulgate legislative rules relating to integrated
15 pest management programs in schools and day care
16 centers.

17 Be it enacted by the Legislature of West Virginia:

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

22 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
23 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

24 **§64-9-1. Commissioner of agriculture.**

1 (a) The legislative rules filed in the state
2 register on the fifteenth day of August, one thousand nine
3 hundred ninety-four, authorized under the authority of
4 section one, article twenty-nine, chapter nineteen, of this
5 code, modified by the commissioner of agriculture to meet
6 the objections of the legislative rule-making review
7 committee and refiled in the state register on the
8 fourteenth day of October, one thousand nine hundred
9 ninety-four, relating to the commissioner of agriculture
10 (West Virginia aquaculture farm rules, 61 CSR 23), are
11 authorized with the amendments set forth below:

12 On page 1, section 61-23-1, by striking out section
13 1.1 and substituting in lieu thereof the following:

14 "1.1 The Commissioner will inspect aquaculture
15 production on a voluntary basis for a period of three
16 years. At the end of this three year period the
17 Aquaculture Farm Rule shall be reviewed to determine
18 whether the rule should become mandatory. Aquaculture
19 producers wishing to participate in the voluntary
20 inspection program must apply in writing to the
21 Commissioner. Once a producer enters the voluntary program
22 they will be required to produce fish according to all of
23 the provisions of this rule for the remaining portion of
24 the three year period. The inspections will be conducted

1 on a risk assessment basis with the purpose of educating
2 farmers and assuring the production of wholesome, unspoiled
3 and unadulterated fish and fishery products."

4 On page 4, section 61-23-3, by striking out section
5 3.1 and substituting in lieu thereof the following:

6 "3.1 All producers of fish participating in the
7 voluntary inspection program outlined in this rule shall
8 have and implement a written Hazard Analysis Critical
9 Control Point Plan, approved by the commissioner, for each
10 location where fish are grown. The commissioner shall
11 furnish a model Hazard Analysis Critical Control Point Plan
12 to the producers for them to follow."

13 On page 5, section 61-23-3, by striking out section
14 3.4.

15 On page 6, section 61-23-4, by striking out all of
16 section 4.6 and substituting in lieu thereof the following:

17 "4.6 Septic tanks, home aeration units, vault privy,
18 or other sewage tanks shall not be located within 50 feet
19 of a well or groundwater supply used as an aquaculture
20 water source, or aquaculture production areas in order to
21 prevent fecal and other contamination of water where fish
22 are raised for human consumption, except that tanks or
23 other aquaculture production systems with a barrier
24 preventing possible contamination may be located closer."

1 On page 8, section 61-23-7, by striking out section
2 7.1 and substituting in lieu thereof the following:

3 "7.1 All fish transported for sale and/or processing
4 by producers participating in this voluntary program shall
5 be:"

6 On page 8, section 61-23-7, by striking out section
7 7.5 and substituting in lieu thereof the following:

8 "7.5 All shipments of human food fish to other
9 producers, wholesalers, retailers, and/or processors
10 required to operate under a HACCP plan shall be accompanied
11 by a written notification stating that any and all drugs,
12 feed and color additives, pesticides and/or medicated feeds
13 have been legally administered and withdrawal periods have
14 been followed. This notification shall include the name,
15 address, and telephone number of the grower; date of sale;
16 and the lot number of fish. This notification shall be
17 signed by the grower. Except that:"

18 On page 8, section 61-23-7, by striking out section
19 7.5.a. and substituting in lieu thereof the following:

20 "7.5.a. Shipments of fish to other producers before
21 the completion of a required withdrawal period shall be
22 accompanied by a written notification including the name
23 and dose of the drug, feed, color additive, pesticide,
24 and/or medicated feed; date administered and length of

1 required withdrawal period; date of sale; and lot number of
2 the fish. This notification shall be signed by the
3 grower."

4 On page 9, section 61-23-9, by striking out section
5 9.1 and substituting in lieu the following:

6 "9.1 It is prohibited to:"

7 On page 10, section 61-23-10, by striking out section
8 61-23-10 in its entirety, and renumbering the remaining
9 sections.

10 On page 11, section 61-23-12, by striking out section
11 12.1.a and substituting in lieu thereof the following:

12 "12.1.a. Enter and inspect, during reasonable hours,
13 any aquaculture production area participating in the
14 voluntary inspection program, where fish are produced,
15 sold, stored, or transported. The inspection includes, but
16 is not limited to, photographing, video taping, verifying,
17 copying and auditing computer files, records and papers
18 relating to the production of fish, as is necessary to
19 determine compliance with this rule and to investigate
20 consumer complaints. The inspection also includes, but is
21 not limited to, photographing, video taping, observing and
22 verifying the premises, vehicles, personnel and
23 activities;"

24 On page 12, section 61-23-12, by striking out section

1 12.1.i.

2 On page 13, section 61-23-13, by striking out section
3 13.3.

4 And,

5 On page 13, section 61-23-13, by striking out section
6 13.4.

7 (b) The legislative rules filed in the state register
8 on the twenty-second day of July, one thousand nine hundred
9 ninety-four, authorized under the authority of section two,
10 article nine, chapter nineteen, of this code, modified by
11 the commissioner of agriculture to meet the objections of
12 the legislative rule-making review committee and refiled in
13 the state register on the ninth day of August, one thousand
14 nine hundred ninety-four, relating to the commissioner of
15 agriculture (animal disease control, 61 CSR 1), are
16 authorized.

17 (c) The legislative rules filed in the state register
18 on the fifteenth day of August, one thousand nine hundred
19 ninety-four, authorized under the authority of section
20 four, article twenty-nine, chapter nineteen, of this code.
21 modified by the commissioner of agriculture to meet the
22 objections of the legislative rule-making review committee
23 and refiled in the state register on the eleventh day of
24 October, one thousand nine hundred ninety-four, relating to

1 the commissioner of agriculture (inspection of
2 nontraditional, domesticated animals, 61 CSR 23D), are
3 authorized.

4 (d) The legislative rules filed in the state register
5 on the fifteenth day of August, one thousand nine hundred
6 ninety-four, authorized under the authority of section ten,
7 article eleven-a, chapter nineteen, of this code, modified
8 by the commissioner of agriculture to meet the objections
9 of the legislative rule-making review committee and refiled
10 in the state register on the fourteenth day of October, one
11 thousand nine hundred ninety-four, relating to the
12 commissioner of agriculture (labeling of dairy products for
13 rBST or rBGH, 61 CSR 4D), are authorized.

14 (e) The legislative rules filed in the state register
15 on the fifteenth day of August, one thousand nine hundred
16 ninety-four, authorized under the authority of section one,
17 article twenty-nine, chapter nineteen, of this code,
18 modified by the commissioner of agriculture to meet the
19 objections of the legislative rule-making review committee
20 and refiled in the state register on the fourteenth day of
21 October, one thousand nine hundred ninety-four, relating to
22 the commissioner of agriculture (West Virginia fish
23 processing rules, 61 CSR ~~23D~~ 23A), are authorized.

24 (f) The legislative rules filed in the state register

1 on the thirty-first day of July, one thousand nine hundred
2 ninety-five, authorized under the authority of section
3 four, article sixteen-a, chapter nineteen, of this code,
4 relating to the commissioner of agriculture (integrated
5 pest management programs in schools and day care centers,
6 61 CSR 12J), are authorized.

7

8 NOTE: The purpose of this bill is to authorize the
9 Commissioner of Agriculture to promulgate legislative rules
10 relating to integrated pest management programs in schools
11 and day care centers.

12

13 Strike-throughs indicate language that would be
14 stricken from the present law, and underscoring indicates
15 new language that would be added.

4308

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H. B. 4308
(By Delegates Douglas, Gallagher, Faircloth, Compton,
Linch and Riggs)
(Introduced January 29, 1996 ; referred to the
Committee on the Judiciary)

61-125

10 A BILL to amend and reenact section one, article nine,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the commissioner of agriculture to
14 promulgate legislative rules relating to integrated
15 pest management programs in schools and day care
16 centers.

17 Be it enacted by the Legislature of West Virginia:

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

22 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
23 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

24 **§64-9-1. Commissioner of agriculture.**

130

1 (a) The legislative rules filed in the state
2 register on the fifteenth day of August, one thousand nine
3 hundred ninety-four, authorized under the authority of
4 section one, article twenty-nine, chapter nineteen, of this
5 code, modified by the commissioner of agriculture to meet
6 the objections of the legislative rule-making review
7 committee and refiled in the state register on the
8 fourteenth day of October, one thousand nine hundred
9 ninety-four, relating to the commissioner of agriculture
10 (West Virginia aquaculture farm rules, 61 CSR 23), are
11 authorized with the amendments set forth below:

12 On page 1, section 61-23-1, by striking out section
13 1.1 and substituting in lieu thereof the following:

14 "1.1 The Commissioner will inspect aquaculture
15 production on a voluntary basis for a period of three
16 years. At the end of this three year period the
17 Aquaculture Farm Rule shall be reviewed to determine
18 whether the rule should become mandatory. Aquaculture
19 producers wishing to participate in the voluntary
20 inspection program must apply in writing to the
21 Commissioner. Once a producer enters the voluntary program
22 they will be required to produce fish according to all of
23 the provisions of this rule for the remaining portion of
24 the three year period. The inspections will be conducted

1 on a risk assessment basis with the purpose of educating
2 farmers and assuring the production of wholesome, unspoiled
3 and unadulterated fish and fishery products."

4 On page 4, section 61-23-3, by striking out section
5 3.1 and substituting in lieu thereof the following:

6 "3.1 All producers of fish participating in the
7 voluntary inspection program outlined in this rule shall
8 have and implement a written Hazard Analysis Critical
9 Control Point Plan, approved by the commissioner, for each
10 location where fish are grown. The commissioner shall
11 furnish a model Hazard Analysis Critical Control Point Plan
12 to the producers for them to follow."

13 On page 5, section 61-23-3, by striking out section
14 3.4.

15 On page 6, section 61-23-4, by striking out all of
16 section 4.6 and substituting in lieu thereof the following:

17 "4.6 Septic tanks, home aeration units, vault privy,
18 or other sewage tanks shall not be located within 50 feet
19 of a well or groundwater supply used as an aquaculture
20 water source, or aquaculture production areas in order to
21 prevent fecal and other contamination of water where fish
22 are raised for human consumption, except that tanks or
23 other aquaculture production systems with a barrier
24 preventing possible contamination may be located closer."

1 On page 8, section 61-23-7, by striking out section
2 7.1 and substituting in lieu thereof the following:

3 "7.1 All fish transported for sale and/or processing
4 by producers participating in this voluntary program shall
5 be:"

6 On page 8, section 61-23-7, by striking out section
7 7.5 and substituting in lieu thereof the following:

8 "7.5 All shipments of human food fish to other
9 producers, wholesalers, retailers, and/or processors
10 required to operate under a HACCP plan shall be accompanied
11 by a written notification stating that any and all drugs,
12 feed and color additives, pesticides and/or medicated feeds
13 have been legally administered and withdrawal periods have
14 been followed. This notification shall include the name,
15 address, and telephone number of the grower; date of sale;
16 and the lot number of fish. This notification shall be
17 signed by the grower. Except that:"

18 On page 8, section 61-23-7, by striking out section
19 7.5.a. and substituting in lieu thereof the following:

20 "7.5.a. Shipments of fish to other producers before
21 the completion of a required withdrawal period shall be
22 accompanied by a written notification including the name
23 and dose of the drug, feed, color additive, pesticide,
24 and/or medicated feed; date administered and length of

1 required withdrawal period; date of sale; and lot number of
2 the fish. This notification shall be signed by the
3 grower."

4 On page 9, section 61-23-9, by striking out section
5 9.1 and substituting in lieu the following:

6 "9.1 It is prohibited to:"

7 On page 10, section 61-23-10, by striking out section
8 61-23-10 in its entirety, and renumbering the remaining
9 sections.

10 On page 11, section 61-23-12, by striking out section
11 12.1.a and substituting in lieu thereof the following:

12 "12.1.a. Enter and inspect, during reasonable hours,
13 any aquaculture production area participating in the
14 voluntary inspection program, where fish are produced,
15 sold, stored, or transported. The inspection includes, but
16 is not limited to, photographing, video taping, verifying,
17 copying and auditing computer files, records and papers
18 relating to the production of fish, as is necessary to
19 determine compliance with this rule and to investigate
20 consumer complaints. The inspection also includes, but is
21 not limited to, photographing, video taping, observing and
22 verifying the premises, vehicles, personnel and
23 activities;"

24 On page 12, section 61-23-12, by striking out section

1 12.1.i.

2 On page 13, section 61-23-13, by striking out section
3 13.3.

4 And,

5 On page 13, section 61-23-13, by striking out section
6 13.4.

7 (b) The legislative rules filed in the state register
8 on the twenty-second day of July, one thousand nine hundred
9 ninety-four, authorized under the authority of section two,
10 article nine, chapter nineteen, of this code, modified by
11 the commissioner of agriculture to meet the objections of
12 the legislative rule-making review committee and refiled in
13 the state register on the ninth day of August, one thousand
14 nine hundred ninety-four, relating to the commissioner of
15 agriculture (animal disease control, 61 CSR 1), are
16 authorized.

17 (c) The legislative rules filed in the state register
18 on the fifteenth day of August, one thousand nine hundred
19 ninety-four, authorized under the authority of section
20 four, article twenty-nine, chapter nineteen, of this code,
21 modified by the commissioner of agriculture to meet the
22 objections of the legislative rule-making review committee
23 and refiled in the state register on the eleventh day of
24 October, one thousand nine hundred ninety-four, relating to

1 the commissioner of agriculture (inspection of
2 nontraditional, domesticated animals, 61 CSR 23D), are
3 authorized.

4 (d) The legislative rules filed in the state register
5 on the fifteenth day of August, one thousand nine hundred
6 ninety-four, authorized under the authority of section ten,
7 article eleven-a, chapter nineteen, of this code, modified
8 by the commissioner of agriculture to meet the objections
9 of the legislative rule-making review committee and refiled
10 in the state register on the fourteenth day of October, one
11 thousand nine hundred ninety-four, relating to the
12 commissioner of agriculture (labeling of dairy products for
13 rBST or rBGH, 61 CSR 4D), are authorized.

14 (e) The legislative rules filed in the state register
15 on the fifteenth day of August, one thousand nine hundred
16 ninety-four, authorized under the authority of section one,
17 article twenty-nine, chapter nineteen, of this code,
18 modified by the commissioner of agriculture to meet the
19 objections of the legislative rule-making review committee
20 and refiled in the state register on the fourteenth day of
21 October, one thousand nine hundred ninety-four, relating to
22 the commissioner of agriculture (West Virginia fish
23 processing rules, 61 CSR ~~23D~~ 23A), are authorized.

24 (f) The legislative rules filed in the state register

1 on the thirty-first day of July, one thousand nine hundred
2 ninety-five, authorized under the authority of section
3 four, article sixteen-a, chapter nineteen, of this code,
4 relating to the commissioner of agriculture (integrated
5 pest management programs in schools and day care centers,
6 61 CSR 12J), are authorized.

7

8 NOTE: The purpose of this bill is to authorize the
9 Commissioner of Agriculture to promulgate legislative rules
10 relating to integrated pest management programs in schools
11 and day care centers.

12

13 Strike-throughs indicate language that would be
14 stricken from the present law, and underscoring indicates
15 new language that would be added.

44 ninety-five, authorized under the authority of section
45 ten, article eleven-b, chapter nineteen of this code,
46 modified by the commissioner of agriculture to meet the
47 objections of the legislative rule-making review commit-
48 tee and refiled in the state register on the twentieth day
49 of December, one thousand nine hundred ninety-five,
50 relating to the commissioner of agriculture (frozen
51 desserts and imitation frozen desserts, 61CSR4B), are
52 authorized.

53 (f) The legislative rules filed in the state register on the
54 thirty-first day of July, one thousand nine hundred
55 ninety-five, authorized under the authority of section
56 four, article sixteen-a, chapter nineteen, of this code,
57 relating to the commissioner of agriculture (integrated
58 pest management programs in schools and day care
59 centers, 61CSR12J), are authorized, with the amend-
60 ments set forth below:

61 "On page one, section 1.1, by striking out the words
62 'These legislative rules establish' and inserting in lieu
63 thereof the words 'This legislative rule establishes';

64 On page two, section 2.5, after the words 'that creates'
65 by striking out the word 'to';

66 On page two, section 2.7, by striking out the words
67 'integrated pest management';

68 On page two, section 2.10, by striking out the word
69 'and' and inserting in lieu thereof the word 'an';

70 On page two, section 2.11, after the words 'bases or' by
71 inserting the word 'the';

72 On page three, section 3.2, by striking out the words
73 'Pesticides shall not be applied' and inserting in lieu
74 thereof the words 'Schools and daycare centers covered
75 by this rule shall not apply pesticides';

76 On page three, section 4.1, by striking out '1995';

77 On page three, section 4.1, by striking out the words 'or
78 the most recent revision';

79 On page three, section 4.3, after the words 'the school',
80 by striking out the word 'shall' and inserting in lieu
81 thereof the word 'should';

82 On page three, section 4.3, after the words 'success of'
83 by striking out the word 'and' and inserting in lieu
84 thereof the word 'an';

85 On page three, section 4.3, after the words 'This record'
86 by striking out the word 'shall' and inserting in lieu
87 thereof the word 'should';

88 On page three, section 4.3, by striking out the word
89 'every six months' and inserting in lieu thereof the word
90 'periodically';

91 On page three, section 4.3, by striking out the word
92 'so';

93 On page three, section 4.4, after the words 'created by'
94 by inserting the words 'West Virginia Code';

95 On page three, section 4.4, by striking out the words
96 'shall review and approve' and inserting in lieu thereof
97 the words 'may comment on';

98 On page three, section 4.5, by striking out the words
99 'The completed integrated pest management shall be
100 filed with the Commissioner for compliance inspection'
101 and inserting in lieu thereof the following: 'Schools
102 covered by this rule shall file completed integrated pest
103 management plans with the Commissioner for compli-
104 ance inspection';

105 On page three, section 4.5, after the words 'the pro-
106 gram,' by inserting the words 'they shall submit';

107 On page three, section 4.5, by striking out the words
108 'shall be submitted' and inserting in lieu thereof the
109 word 'to';

110 On page four, section 4.7, after the words 'Upon re-
111 quest' by inserting the words 'schools covered by this
112 rule shall provide';

- 113 On page four, section 4.7 by striking out the words
114 'shall be provided';
- 115 On page four, section 4.8, by striking out the words
116 'these rules' and inserting in lieu thereof the words 'this
117 rule';
- 118 On page four, section 5.1, by striking out '1995';
- 119 On page four, section 5.1, by striking out the words 'or
120 the most recent revision';
- 121 On page five, section 5.3, after the words 'day care
122 center' by striking out the word 'shall' and inserting in
123 lieu thereof the word 'should';
- 124 On page five, section 5.3, after the words 'success of',
125 by striking out the word 'and' and inserting in lieu
126 thereof the word 'an';
- 127 On page five, section 5.3, after the word 'this record' by
128 striking out the word 'shall' and inserting in lieu thereof
129 the word 'should';
- 130 On page five, section 5.3, by striking out the words
131 'every six months' and inserting in lieu thereof the word
132 'periodically';
- 133 On page five, section 5.3, by striking out the word 'so';
- 134 On page five, section 5.4, by striking out the words
135 'The completed integrated pest management plan shall
136 be filed with the Commissioner for compliance inspec-
137 tion' and inserting in lieu thereof the following: 'All day
138 care centers covered by this rule shall file completed
139 integrated pest management plans with the Commis-
140 sioner for compliance inspection.';
- 141 On page five, section 5.4, after the words, 'the pro-
142 gram,' by inserting the words 'they shall submit';
- 143 On page five, section 5.4, by striking out the words
144 'shall be submitted' and inserting in lieu thereof the
145 word 'to';
- 146 On page five, section 5.6, before the word, 'Copies,' by

147 inserting the words 'Day care centers covered by this
148 rule shall provide';

149 On page five, section 5.6, by striking out the words,
150 'shall be given to' and inserting in lieu thereof the words
151 'to a';

152 On page five, section 6.1.1, before the words 'The
153 monitoring program,' by adding the following: 'Each
154 school and day care center shall have a monitoring
155 program.';

156 On page six, section 6.1.1, before the words 'The
157 information' by adding the words 'Each school and day
158 care center shall evaluate'

159 On page six, section 6.1.1, by striking out the words
160 'shall be evaluated';

161 On page six, section 6.1.2, by striking out the words 'A
162 monitoring program shall be conducted in each facility
163 on an ongoing basis' and inserting in lieu thereof the
164 following: 'Each school and day care center shall conduct
165 a monitoring program in suspect areas of their facility on
166 an ongoing basis';

167 On page six, section 6.1.3.b.A, before the word 'Trap'
168 by adding the word 'The';

169 On page six, section 6.1.3.b.A, after the word 'and'; by
170 inserting the word 'its';

171 On page six, section 6.1.3.b.B, before the word 'Date'
172 by adding the word 'The';

173 On page six, section 6.1.3.b.C, by striking out the word
174 'Trap' and inserting in lieu thereof the words 'The trap's'

175 On page six, section 6.1.3.b.D, before the word 'Num-
176 bers' by inserting the word 'The'

177 On page six, section 6.1.3.b.F, after the words 'pest
178 management,' by adding a semicolon and the word 'and';

179 On page six, section 6.1.3.c., by striking out the words
180 'at least every two months or';

181 On page six, section 6.1.3.c, after the words 'tacky or
182 when' by inserting the word 'the';

183 On page six, section 6.1.3.c, after the word 'first' by
184 adding a semicolon and the word 'and';

185 On page seven, section 6.2, by striking out the comma
186 and the words 'Use of the Least Hazardous Materials',
187 and inserting in lieu thereof the words 'of this rule';

188 On page seven, after the section heading, by adding the
189 following:

190 'In an integrated pest management program, persons
191 responsible for pest management should evaluate all
192 possible control options. Control options range from
193 non-chemical methods to least hazardous pesticides to
194 pesticides with a higher degree of risk to human health.
195 In keeping with the legislative mandate for integrated
196 pest management, the pest control contractor shall, after
197 monitoring for pest infestations, proceed in controlling
198 pests using the least hazardous method that is both
199 practical and effective as outlined in this section.' and by
200 renumbering the remaining sections.

201 On page seven, section 7.1.1, by striking out the word
202 'shall' and inserting in lieu thereof the word 'should';

203 On page seven, section 7.1.1, before the word 'preven-
204 tive' by striking out the word 'Such' and inserting in lieu
205 thereof the word 'These';

206 On page seven, section 7.1.1, before the word 'Consult'
207 by adding the words 'A school or day care center shall';

208 On page seven, section 7.1.1, by striking out the words
209 '1995, or the most recent revision';

210 On page seven, section 7.1.1, by striking out the word
211 'IPM' and inserting in lieu thereof the words 'integrated
212 pest management';

213 On page seven, section 7.1.1, by striking out the words,
214 'Note that';

215 On page seven, section 7.2.1, after the word 'necessary'
216 by inserting the words, 'for a school or day care center';

217 On page seven, section 7.3.1, before the word, 'Prod-
218 ucts' by adding the words 'Schools and day care centers
219 shall apply';

220 On page seven, section 7.3.1, by striking out the words
221 'and applied';

222 On page eight, section 7.3.3, by striking out the word
223 'are' and inserting in lieu thereof the word 'shall';

224 On page eight, section 7.3.3, after the word 'out' and by
225 inserting the words 'of the treated area';

226 On page eight, section 7.4.3, after the word 'greater' by
227 adding the words 'except when the air in the treated area
228 can be purged by the heating, cooling and ventilation
229 system, the period of reentry shall be 4 hours or the
230 period specified on the label of the pesticide product as
231 registered by the United States Environmental Protec-
232 tion Agency, which ever is greater.';

233 On page eight, section 8.1.a, by striking out the comma
234 and the words 'Use of the Least Hazardous Materials';

235 On page eight, section 8.1.b, before the word 'School'
236 by adding the words 'At the beginning of the school
237 year,';

238 On page eight, section 8.1.b, at the end of the section
239 by adding the following: 'The notice shall instruct the
240 employee of the location of posting of the treatment
241 schedule and notification of any necessary unscheduled
242 treatments. School administrators shall also notify their
243 employees of the treatment schedule at faculty senate
244 meetings.';

245 On page two, section 8.2.a, by striking out the word 'in'
246 and inserting in lieu thereof the word 'is';

247 On page eight, section 8.2.a, after the words 'parents
248 or' by inserting the word 'legal';

249 On page eight, section 8.2.a, after the word 'pesticides'
250 by striking out the words 'in levels 3 and 4 as detailed in
251 section 4, Use of the Least Hazardous Materials, of this
252 rule.' and inserting in lieu thereof the words 'as detailed
253 in section 4 of this rule.';

254 On page nine, section 8.2.b, after the words 'parents or'
255 by inserting the word 'legal';

256 On page nine, section 8.2.b, after the words 'parent or'
257 by inserting the word 'legal';

258 On page nine, section 8.2.c, after the words 'parent or'
259 by inserting in the word 'legal';

260 On page nine, section 8.2.c, by striking out the word
261 'such';

262 On page nine, section 8.3.a, after the words 'parent or'
263 by adding the word 'legal';

264 On page nine, section 8.3.a, after the word 'pesticide'
265 by striking out the words 'in levels 3 and 4 as detailed in
266 section 4, Use of the Least Hazardous Materials, of this
267 rule.' and inserting in lieu thereof the words 'as detailed
268 in section 4 of this rule';

269 On page nine, section 8.3.b, after the words 'to the
270 parent or' by inserting the word 'legal';

271 On page nine, section 8.3.b, by striking out the word
272 'Such' and inserting in lieu the word 'The';

273 On page nine, section 8.3.b, after the words 'where the
274 parent or' by inserting the word 'legal';

275 On page nine, section 9.1, after the word 'pesticide
276 applicators' by striking out the comma and inserting in
277 lieu thereof a period.;

278 On page nine, section 9.1, by striking out the words
279 'Except that';

280 On page nine, section 9.4, after the words 'pesticide
281 applicators', by inserting a comma and striking out the
282 word 'or';

283 On page nine, section 9.4, by striking out the words
284 'certified in General Pest Control';

285 On page nine, section 9.4, after the words 'outlined in'
286 by striking out the words 'Title 61 Series 12A, Certified
287 Pesticide Applicator Rules' and inserting in lieu thereof
288 the words 'West Virginia Department of Agriculture
289 Certified Pesticide Applicator Rules, 61 CSR 12A';

290 On page ten, section 9.5.1, before the word 'specialized'
291 by striking out the word 'The' and inserting in lieu
292 thereof the word 'Any';

293 On page ten, section 9.5.1, by striking out the word
294 'program' and inserting in lieu thereof the words 'pro-
295 grams not offered by the commissioner';

296 On page ten, section 9.5.2, by striking out the words,
297 'Title 61 Series 12A' and inserting in lieu thereof the
298 words '61 CSR 12A';

299 On page ten, section 9.5.2, by striking out the word
300 'July' and inserting in lieu thereof the word 'September';

301 On page ten, section 9.5.3, by striking out the word
302 'July' and inserting in lieu thereof the word 'September';

303 On page ten, section 9.5.3, by striking out the words
304 'Title 61 Series 12A' and inserting in lieu thereof the
305 words '61 CSR 12A';

306 On page ten by striking out all of section 10.1, and
307 inserting in lieu thereof the following:

308 '10.1 Schools and day care centers covered by this rule
309 shall keep for a period of two years all documents
310 required to be in the Integrated Pest Management Files
311 as detailed in Section 4.6 and Section 5.5, respectively,
312 of this rule.';

313 On page ten, by striking out all of section 11.1 and
314 renumbering the remaining sections;

315 On page ten, section 11.2, by striking out '1995';

316 And,

317 On page eleven, section 11.5, by striking out the words
318 'these rules' and inserting in lieu thereof the words 'this
319 rule'."

§64-9-2. Secretary of state.

1 (a) The legislative rules filed in the state register on the
2 twelfth day of January, one thousand nine hundred
3 ninety-five, authorized under the authority of section
4 thirteen, article two, chapter three of this code, modified
5 by the secretary of state to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the twenty-second day of June, one
8 thousand nine hundred ninety-five, relating to the
9 secretary of state (agencies designated to provide voter
10 registration services, 153CSR28), are authorized.

11 (b) The legislative rules filed in the state register on the
12 twenty-fifth day of July, one thousand nine hundred
13 ninety-five, authorized under the authority of section
14 six, article one-a, chapter three of this code, modified by
15 the secretary of state to meet the objections of the
16 legislative rule-making review committee and refiled in
17 the state register on the twenty-third day of January, one
18 thousand nine hundred ninety-six, relating to the
19 secretary of state (guidelines for the use of nicknames
20 and other designations on the ballot, 153CSR14), are
21 authorized.

22 (c) The legislative rules filed in the state register on the
23 twenty-eighth day of July, one thousand nine hundred
24 ninety-five, authorized under the authority of section
25 six, article one-a, chapter three of this code, modified by
26 the secretary of state to meet the objections of the
27 legislative rule-making review committee and refiled in
28 the state register on the eighth day of December, one
29 thousand nine hundred ninety-five, relating to the
30 secretary of state (procedures for canvassing electronic
31 ballot elections using punch card or optical scan ballots,
32 153CSR18), are authorized.

33 (d) The legislative rules filed in the state register on the



FILED

WILLIAM H. HARRINGTON
Chief of Staff

MAY 29 9 56 AM 1996

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

KEN HECHLER
Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

TO: David Miller
Robert G. Morris

AGENCY: Agriculture

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: May 8, 1996

THE ATTACHED RULE 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: 12J TITLE: 61 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: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

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