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ADMINISTRATIVE LAW DIVISION**

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Form #6

**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 RULE BEING PROPOSED: 6D


TITLE OF RULE BEING PROPOSED: Nutrient Management Certification

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

AUTHORIZATION IS CITED IN (house or senate bill number) HB4139

SECTION 64-9-7 (c), PASSED ON March 10, 2012

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2012


Authorized Signature

Title 61
Legislative Rules
West Virginia Department of Agriculture

Series 6D
Nutrient Management Certification

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§61-6D-1. General.

1.1. Scope.-- This legislative rule describes the West Virginia Department of Agriculture's certification program for persons that prepare and update nutrient management plans. When a nutrient management plan is prepared for a farm, it indicates how essential primary nutrients, that is, nitrogen, phosphorus, and potassium, are to be annually managed on farm fields for crop or forage production and for the protection of water quality. Plans contain recommendations to farmers based on expected crop yield, existing nutrient levels in the soil, organic residuals, recommend stored manures, bio-solids and compost, optimum timing and placement of nutrients, environmental protection and normal farming practices such as liming, tillage, equipment calibration and crop rotation. The Department shall certify qualified persons to prepare these plans.

1.2. Authority. -- W.Va. Code §19-15-12.

1.3. Filing Date. -- April 19, 2012

1.4. Effective Date. -- July 1, 2012

§61-6D-2. Definitions.

2.1. "Certified nutrient management planner" means a person certified by the Department under this subtitle to prepare and update a nutrient management plan.

2.2. "Field identification number" means a number used by a farmer or operator to distinguish or pinpoint the location of a field or management unit on a farm.

2.3. "Nutrient content" means the percentage of any primary nutrients such as N (Nitrogen), P (Phosphorus), K (Potassium) and secondary nutrients such as Ca (Calcium), or Mg (Magnesium) in any type of source of plant nutrients.

2.4. "Nutrient management plan" or "plan" means a plan prepared by a certified nutrient management planner to manage the amount, form, placement, timing, and application of commercial fertilizers, animal manures, bio-solids, or other plant nutrients in order to prevent pollution and to maintain soil productivity.

2.5. "Primary crop nutrient needs" mean the primary nutrient requirements of a crop determined as pounds of nitrogen (N), available phosphate (P2O5) and soluble potash (K2O) and approved liming materials required for production of a crop yield unit such as a bushel of corn or a ton of hay.

2.6. "Watershed code" means the USGS numeric code used by the State to identify a hydrologic unit area.

§61-6D-3. Certification Requirement.

3.1. Unless certified by the Department, under this rule a person shall not act as a certified nutrient management planner.

§61-6D-4. Certification Application and Examination Requirement.

4.1. To apply for the examination to be certified as a nutrient management planner, an applicant shall file the following with the Department at least thirty (30) days prior any announced examination:

4.1.a. A completed application on forms provided by the Department;

4.1.b. Proof of meeting one of the following:

4.1.b.1. Five (5) years of nutrient management practical experience working with farmers and an unrelated degree or no degree;

4.1.b.2. Three (3) years of practical experience and a two (2) year associates degree in an agricultural related field; or

4.1.b.3. One (1) year of experience and a baccalaureate degree in an agricultural related field (Agriculture or Natural Resources);

4.1.c. Current or former employers who supervised the applicant's nutrient management activities shall provide verification on Department forms. Nutrient management experience will be listed as a percentage of the time the individual performed actual nutrient management activities.

§61-6D-5. Examination.

5.1. The Department shall offer a certification examination for nutrient management planners once a year on the first Friday of February. The Department may add additional certification examination dates at its discretion. The Department shall give sixty (60) days public notice of the time and place for each examination.

5.2. The Department may provide required preparatory training or a list of study materials before any examination is given.

5.3. The Department shall allow a candidate who fails a certification examination to make application to take the exam at the next scheduled exam date.

§61-6D-6. Certification.

6.1. The Department shall certify any person as a nutrient management planner who:

6.1.a. Meets the requirements of this rule;

6.1.b. Passes the Department certification examination.

§61-6D-7. Certification Renewal.

7.1. The Department shall issue nutrient management certificate for two (2) years and may renew it at the end of the second year if the certificate holder meets the requirements of this section. However, the Department shall revoke a nutrient management certification after the first year if the certificate holder does not submit an annual activity report as described in 7.1.c of this section.

7.1.a. The certificate holder shall submit a renewal application on the form provided by the Department which; provides proof of the satisfactory completion within the past two (2) years of at least twelve (12) hours of continuing education, workshops, or other training programs that have been pre-approved by the Department. To facilitate certificate holders to gain the 12 hours of training the Department shall provide a minimum of six (6) hours continuing education training annually.

7.1.b. The certificate holder shall submit, on the form required by the Department, an annual activity report on nutrient management plans by December 31. The annual report shall include but is not limited to;

7.1.c.1. The name and certification number of the certificate holder;

7.1.c.2. The USGS 12 digit Watershed Code of the nutrient management plan;

7.1.c.3. County Name in which the nutrient management plan was written;

7.1.c.4. The number of acres in the nutrient management plan, animal units, and amount of nutrients under improved management.

§61-6D-8. Revocation of Nutrient Management Certification.

9.1 The Department shall revoke a nutrient management certificate if the certificate holder has:

9.1.a. Not submitted the annual report required by 7.1.b of this rule;

9.2.b. Not submitted renewal form as required by 7.1.a of this rule;

- 9.3.c. Not met the continuing education criteria as outlined in 7.1.a of this rule;
- 9.4.d. Falsified any document related to the Nutrient Management Program;
- 9.5.e. Misrepresented certification; or
- 9.6.f. Violated any applicable federal or state laws and rules.