

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #2

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2014 JUN 27 P 1:04

WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: West Virginia Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative CITE AUTHORITY: 19-16A-4

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 12

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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 28, 2014 AT 4:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Department of Agriculture  
Herma Johnson, Director  
Regulatory and Environmental Affairs Division  
1900 Kanawha Blvd., East  
Charleston, WV 25305  
hjohnson@wvda.us

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



**Regulatory & Environmental Affairs Division  
West Virginia Department of Agriculture**

1900 Kanawha Blvd. E., Charleston, WV 25305  
304-558-2208

**Walt Helmick**  
Commissioner

**Herma Johnson**  
Director

**Summary of Proposed Rule  
Fee Structure For The Pesticide Control Act of 1990  
Title 61 – Series 12**

**61-12-4. Classification and Fees of Applicator Certificates**

The Department is proposing an increase in the Commercial Applicator fee from \$10.00 to \$20.00 and an increase of \$10.00 to \$20.00 for Registered Technicians.

**61-12-5. Product Registration**

The Department is proposing an increase in pesticide product registration from \$125.00 to \$150.00.



**Regulatory & Environmental Affairs Division  
West Virginia Department of Agriculture**

1900 Kanawha Blvd. E., Charleston, WV 25305  
304-558-2208

**Walt Helmick**  
Commissioner

**Herma Johnson**  
Director

**STATEMENT OF CIRCUMSTANCES  
Fee Structure for the Pesticide Control Act of 1990  
Title 61- Series 12**

The West Virginia Department of Agriculture is proposing an increase in the annual fee for Commercial Applicators and Registered Technicians from \$10.00 to \$20.00. The Department is also proposing an increase in the Pesticide Product Registration from \$125.00 to \$150.00 per product.

This increase will help maintain the services currently offered free of charge, such as container recycling, pesticide waste disposal, pesticide and equipment safety training, respirator fit testing, HeartSaver First Aid training and initial certification and recertification training. The laboratory equipment required yearly maintenance contracts. Other costs that are incurred is disposal of laboratory chemical waste as a results of sample collection and yearly training and certification of laboratory personnel. Travel costs have increased for field staff to ensure compliance with pesticide licensing and application regulations. Added costs are also involved in an emphasis on compliance assistance for Integrated Pest Management in School and Day Care/Facilities to reduce children's exposure to pesticides.

A handwritten signature in cursive script, appearing to read "Walt Helmick".

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Fee Structure for the Pesticide Control Act of 1990

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Department of Agriculture

Address: 1900 Kanawha Blvd., East  
Charleston, WV 25305

Herma Johnson

Phone Number: 304-558-2227 Email: hjohnson@wvda.us

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This increase will help maintain the services currently offered free of charge, such as container recycling, pesticide waste disposal, pesticide and equipment safety training, respirator fit testing, HeartSaver First Aid training and initial certification and recertification training. The laboratory equipment required yearly maintenance contracts. Other costs that are incurred is disposal of laboratory chemical waste as a results of sample collection and yearly training and certification of laboratory personnel. Travel costs have increased for field staff to ensure compliance with pesticide licensing and application regulations. Added costs are also involved in an emphasis on compliance assistance for Integrated Pest Management in School and Day Care/Facilities to reduce children's exposure to pesticides.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>		318,500.00	318,500.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>		318,500.00	318,500.00

Rule Title: Fee Structure for the Pesticide Control Act of 1990

Rule Title:

Fee Structure for the Pesticide Control Act of 1990

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

The West Virginia Department of Agriculture is proposing an increase in the annual fee for Commercial Applicators and Registered Technicians from \$10.00 to \$20.00 for each category. The Department is also proposing an increase in the Pesticide Product Registration from \$125.00 to \$150.00 per product.

This increase will help maintain the services currently offered free of charge, such as container recycling, pesticide waste disposal, pesticide and equipment safety training, respirator fit testing, HeartSaver First Aid training and initial certification and recertification training. The laboratory equipment required yearly maintenance contracts. Other costs that are incurred is disposal of laboratory chemical waste as a results of sample collection and yearly training and certification of laboratory personnel. Travel costs have increased for field staff to ensure compliance with pesticide licensing and application regulations. Added costs are also involved in an emphasis on compliance assistance for Integrated Pest Management in School and Day Care/Facilities to reduce children's exposure to pesticides.

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: 6/25/14

Signature of Agency Head or Authorized Representative

Watt Helms

TITLE 61  
LEGISLATIVE RULE  
WEST VIRGINIA DEPARTMENT OF AGRICULTURE

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JUN 27 P 1:05

SERIES 12  
FEE STRUCTURE FOR THE PESTICIDE CONTROL ACT OF 1990

SECRETARY OF STATE

**§61-12-1. General.**

1.1. Scope. -- This legislative rule establishes the fee structure to be used under the Pesticide Control Act of 1990.

1.2. Authority. -- W. Va. Code '19-16A-4.

1.3. Filing Date. -- ~~April 8, 2008.~~

1.4. Effective Date. -- ~~July 1, 2008.~~

**§61-12-2. Examinations.**

2.1. The Commissioner shall assess each person taking an examination for a license, certification or certificate a fee of \$20.00 per examination session. This fee is for one or more examinations taken at the same time. This examination fee shall be used to help defray the costs of training materials, postage and processing of licenses, certification and certificates.

**§61-12-3. Classification and Fees of Pesticide Business Licenses.**

3.1. Pesticide application business - The Commissioner shall assess an annual fee of \$60.00 for each pesticide application business engaged in the business of applying pesticides upon the lands of another. Pesticide application business making non solicited recommendations of pesticide products, made in the course of normal business practices, shall be exempt from a consultant license and fee.

3.2. Pesticide consultant - The Commissioner shall assess an annual fee of \$60.00 for each pesticide application business engaged in the business of soliciting or offering services for hire to recommend the use of pesticide on the lands of others.

3.3. Pesticide dealer - The Commissioner shall assess an annual fee of \$60.00 for each person who sells, wholesales, distributes, offers or exposes for sale, exchanges or gives away any restricted use pesticide within or into this State. Commercial delivery services shall not be deemed as distributors of pesticides.

**§61-12-4. Classification and Fees of Applicator Certificates.**

4.1. Commercial applicator - The Commissioner shall assess an annual fee of ~~\$10.00~~ \$20.00 for 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.

4.2. Private applicator - The Commissioner shall assess a fee of \$10.00 every three years to maintain certification as a private applicator to apply restricted use pesticides for the purpose of producing any agricultural commodity on property owned or rented by him 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.

4.3. Registered technician - The Commissioner shall assess an annual fee of ~~\$10.00~~ \$20.00 for each person qualifying as a registered technician.

**§61-12-5. Product Registration.**

5.1. The Commissioner shall assess an annual registration fee of ~~\$125.00~~ \$150.00 per product for each pesticide which is manufactured, distributed, sold or offered for sale, delivered for transportation or transported in intrastate commerce of between points within this State through any point outside this State.

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 shall be registered but are exempt from the annual registration fee, provided the 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.