



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Agriculture TITLE-SERIES: 61-12
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 61-12 Fee Structure for the Pesticide Control Act of 1990

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: §19-16A-4

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

Establishing fee structure

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

n/a

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

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

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

to establish fee structure

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

n/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

n/a

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

n/a

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Amie J Minor -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 61
LEGISLATIVE RULE
WEST VIRGINIA 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 of 1900.

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

1.3. Filing Date. -- ~~April 21, 2015.~~

1.4. Effective Date. -- ~~July 1, 2015.~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect on August 1, 2032.

§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 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. A pesticide application business making non-solicited recommendations of pesticide products, made in the course of normal business practices, is 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 are not considered distributors of pesticides.

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

4.1. Commercial applicator – The Commissioner shall assess an annual fee of \$20.00 for each person who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or any property other than as a private applicator.

4.2. Private Applicator – The Commissioner shall assess a fee of \$10,00 every three years for each person to maintain certification as a private applicator. A private applicator is a person who applies restricted use pesticides for the purpose of producing any agricultural commodity on property owned or rented by his or her employer or who applies restricted uses pesticides without compensation, other than the trading of personal services between producers of agricultural commodities on the property of another person.

§61-12-5. Product Registration.

5.1. The Commissioner shall assess an annual registration fee of \$150.00 per product for each pesticide which is 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.

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.