



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Agriculture

RULE TYPE: Legislative

TITLE-SERIES: 61-12

RULE NAME: Fee Structure for the Pesticide Control
Act of 1990

CITE AUTHORITY: §19-16A-4

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

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 separate pesticide 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~~7~~.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 him or her or 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 within this State, or 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~~ bona fide 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.

