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Colorado Department of Agriculture

Plant Industry Division

Administration and Enforcement of the Pesticide Act

8 CCR 1203-1

Part 3. The registration system.

- 3.1. Every pesticide product which is distributed in this state must be registered with the Commissioner.
 - (a) The Commissioner may exempt certain pesticides from registration in accordance with §35-9-106(2), C.R.S. (incorporated by reference herein, later amendments not included).
 - (b) The following pesticide products shall not be exempt from registration;
 - (1) minimum risk pesticides as described under 40 C.F.R. § 152.25(f) (2016) (incorporated by reference herein, later amendments not included);
 - (2) pesticides distributed under an experimental use permit, as described under 40 C.F.R. § 152.30(c)(1) (2016) (incorporated by reference herein, later amendments not included).
 - (3) pesticides distributed under an emergency exemption, as described in 40 C.F.R. § 152.30(e) (2016) (incorporated by reference herein, later amendments not included).
- 3.2. Each pesticide product shall be registered separately.
- 3.3. Repealed.
- 3.4. The annual application fee for registration or renewal of a registration shall be ~~\$165.00~~\$205.00.
- 3.5. Repealed.
- 3.6. Any person is eligible to be a registrant.
- 3.7. Effect of registration: If a pesticide product is registered under the Act, no further registration under the Act is required unless the label or ingredient statement differ from the representations made in connection with registration.
- 3.8. The Commissioner will send all correspondence concerning the application and any subsequent registration information to the address provided by the applicant. It is the responsibility of the applicant and any registrant to ensure that the Commissioner has a current and accurate address. Any change of address submitted on the application form or renewal form shall result in a change of address for the registrant. Otherwise, any change of address must be in writing and specifically indicate an intention to change the official mailing address of the registrant.
- 3.9. Any change of address submitted to the Commissioner by a registrant will result in a change of address for all pesticide products registered by said registrant.

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- 3.10. Applications and correspondence relating to registration should be submitted as specified by the Commissioner to:

Colorado Department of Agriculture Division of Plant Industry 305 Interlocken Parkway,
Broomfield, CO 80021
- 3.11. At any time the Commissioner, under the authority of the Act, may require from the registrant, a description or descriptions of tests and the results thereof upon which labeling claims are made.
- 3.12. Effective date of registration. Registration of a pesticide product shall become effective on the date the application is approved and accepted by the Commissioner. A Certificate of Registration will be issued to the registrant for each pesticide product registered with the Commissioner.
- 3.13. Responsibility of a registrant. The registrant is responsible for the accuracy and completeness of all information submitted in connection with his application for registration of a pesticide product.
- 3.14. Changes in labeling or ingredient statement. Changes in the labeling or ingredient statement of a registered pesticide product shall be submitted prior to any sales using the changed label or ingredients in Colorado. The exact changes shall be described.
- 3.15. Claims must conform to registration. Claims made for a pesticide product must not differ in substance from representations made in connection with registration or revised labeling submissions, including representations with respect to effectiveness, ingredients, directions for use, or pests against which the product is recommended. Any claims which differ in substance from representations made in connection with registration shall be described.
- 3.16. Compliance with the FIFRA. The Commissioner shall refuse application for registration of any pesticide product that is not in compliance with the FIFRA.
- 3.17. Failure to provide the information required by Section 3.11, Section 3.18 and/or Section 3.19 within 60 days from the date the first Notice of Lack of Compliance is printed, shall be considered an incomplete application and no registration or renewal of a registration for the pesticide product shall be issued.
- 3.18. Each applicant for a registration shall submit a signed, complete, accurate, and legible application, including: the form provided by the Commissioner; the application fee set by the Commissioner; unless provided on the application form, a list of each inert ingredient and its percentage when requested by the Commissioner; and a final printed label and labeling as it appears on the pesticide product in the marketplace.
- 3.19. Registration expiration and renewal:
 - (a) All pesticide registrations shall expire on December 31 of each year.
 - (b) Each applicant for renewal of a registration shall submit, prior to expiration on December 31, a signed, complete, accurate, and legible application, including: the form provided by the Commissioner and the application fee set by the Commissioner.
- 3.20. Repealed.
- 3.21. Repealed.
- 3.22. Repealed.

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3.23. Repealed.

3.24. Repealed.

Part 20. Statements of Basis, Specific Statutory Authority, and Purpose

20.16. ADOPTED SEPTEMBER 17, 2019 – EFFECTIVE OCTOBER 30, 2019

STATUTORY AUTHORITY

THESE AMENDMENTS TO THESE RULES ARE PROPOSED FOR ADOPTION BY THE COMMISSIONER OF THE COLORADO DEPARTMENT OF AGRICULTURE (“CDA”) PURSUANT TO THE AUTHORITY UNDER THE PESTICIDE ACT (“ACT”), SPECIFICALLY §§ 35-9-107(2) AND 35-9-118(3)(A), C.R.S

PURPOSE

THE PURPOSE OF THESE PROPOSED AMENDMENTS IS TO:

AMEND PART 3 OF THE RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PESTICIDE ACT (THE “RULE”) TO INCREASE PESTICIDE REGISTRATION FEES BY \$40 TO INCREASE FUNDING FOR THE DEPARTMENT’S STATE WATERS PROTECTION EFFORTS AS EXPANDED BY SENATE BILL 19-186.

FACTUAL AND POLICY ISSUES

THE FACTUAL AND POLICY ISSUES ENCOUNTERED WHEN DEVELOPING THESE RULES INCLUDE:

1. PURSUANT TO SECTION 35-9-118(3)(A), C.R.S., ANY FEE COLLECTED UNDER THE PESTICIDE REGISTRATION PROGRAM SHALL HAVE AN INCREMENT APPROVED BY THE AGRICULTURAL COMMISSION TO FUND THE GROUNDWATER PROTECTION PROGRAM. CURRENTLY, THE GROUNDWATER INCREMENT IS SET AT \$40.
2. DURING THE 2019 LEGISLATIVE SESSION, THE COLORADO GENERAL ASSEMBLY INTRODUCED SB 19-186, EFFECTIVE AUGUST 2, 2019. SB 19-186 MODIFIED SECTION 35-9-118(3)(A), CHANGING “GROUNDWATER PROTECTION EFFORTS” TO “STATE WATERS PROTECTION EFFORTS.” THIS CHANGE EXPANDED THE SCOPE AND COST OF IMPLEMENTING THE PROGRAM.
3. THE CURRENT PESTICIDE REGISTRATION FEE IS SET FORTH IN THE PESTICIDE ACT, PART 3.4, AND IS \$165. THE DEPARTMENT OF AGRICULTURE REGISTERS AN AVERAGE OF 14,000 PESTICIDE PRODUCTS PER YEAR.
4. THE DEPARTMENT OF AGRICULTURE PROPOSES A FEE INCREASE OF \$40 PER PESTICIDE PRODUCT REGISTERED IN COLORADO, INCREASING THE REGISTRATION FEE TO \$205. THE FEE INCREASE WILL GENERATE, BASED ON AVERAGE REGISTRATION RENEWALS, AN ESTIMATED \$560,000 TO THE STATE WATERS PROGRAM TO COVER INCREASED PROGRAM EXPENSES.
5. SB 19-186 APPROPRIATED \$239,592 FOR THE 2019-20 FISCAL YEAR TO ASSIST WITH THE IMPLEMENTATION OF THE STATE WATER SAMPLING PROGRAM. SUBSEQUENT TO THE FIRST YEAR OF IMPLEMENTATION, THE ESTIMATED ANNUAL BUDGET TO OPERATE THE FULL STATE WATERS PROGRAM WILL BE \$623,605. THE REMAINING EXPENDITURES, NOT COVERED BY THE PESTICIDE REGISTRATION FUNDING INCREASE, WILL BE REALIZED BY FERTILIZER TONNAGE FEE REVENUES, AS SET FORTH IN SB 19-186.

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6. THE DEPARTMENT DISCUSSED THE PROPOSED \$40 INCREASE TO PESTICIDE REGISTRATION FEES WITH THE PESTICIDE ADVISORY COMMITTEE ON APRIL 22, 2019, AT A REGULARLY SCHEDULED COMMITTEE MEETING IN ACCORDANCE WITH SECTION 35-9-118(3)(A), C.R.S.

7. IN 2017 THE VIRGINIA DEPARTMENT OF AGRICULTURE CONDUCTED A NATIONAL SURVEY ON STATE PESTICIDE REGISTRATION FEES. THIRTY-SIX STATES RESPONDED; OF THOSE TWELVE STATES HAVE PESTICIDE REGISTRATION FEES THAT EXCEED \$205 PER PRODUCT, THE HIGHEST REGISTRATION FEE BEING SET AT \$1,150 PER PRODUCT. COLORADO'S PROPOSED FEE IS THIRTEENTH IN COMPARISON TO THOSE STATES RESPONDING.