

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 80 Department of Agriculture and Industries

Rule No. 80-1-13-.04

Rule Title: Registrations

 New; x Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the State's police power and the protection of the public health, safety or welfare? Yes

Is there another less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? Moderate Yes

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer John McMiller

Date: 8-10-2011

(DATE FILED)
(STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
FOOD SAFETY

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Agriculture and Industries

Rule No. & Title: 80-1-13-.04 Registrations

Intended Action: To Amend

Substance of Proposed Action: At the request of this Department the 2011 Legislature enacted Act 2001-549 which amended Section 2-27-9, Code of Alabama 1975 to provide that registration of pesticides and devices be changed from an annual to a biennial timeframe and to implement an updated fee schedule. This proposed rule will implement Act 2001-549.

Time, Place, Manner of Presenting Views: Views may be presented in writing to the contact person below or in person on Tuesday, November 8, 2011 at 10:00 a.m., in the Board Room of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama.

Final Date for Comment and Completion of Notice: November 8, 2011

Contact Person at Agency: Robert J. Russell, Assistant Attorney General and Legal Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. 240-7117.

8-10-2011
Date

John McMillan
John McMillan
Commissioner of Agriculture
and Industries

80-1-13.04 Registrations

(1) Every pesticide or device which is distributed, sold, offered for sale, delivered, or transported within this state shall be registered with the Alabama Department of Agriculture and Industries in accordance with registration and registration requirements of Code of Ala. 1975, §2-27-9 as follows:

(a) Beginning on January 1, ~~2005-2012~~, the ~~annual~~ biennial registration fee for a pesticide or device shall be ~~two~~ four hundred dollars ~~(\$200)~~ (\$400). ~~This fee structure shall remain in effect until October 1, 2011, at which time the annual registration fee for a pesticide or device shall be set at the national average for such product registration fees.— The fee structure shall be paid according to the following schedule:~~

(1) All registrations issued to registrants whose names begin with the letters A through M shall expire on December 31, 2011. Upon expiration of registration on December 31, 2011, a registrant whose name begins with letters A through M may renew a registration for a period of two years upon payment of a fee of four hundred dollars (\$400) per product. The registration shall be valid until December 31, 2013, and may be renewed every two years thereafter upon payment of the fee.

(2) All registrations issued to registrants whose names begin with the letters N through Z shall expire on December 31, 2011. Upon expiration of the registration on December 31, 2011, a registrant whose name begins with letters N through Z may renew a registration for a period of one year upon payment of a fee of two hundred dollars (\$200) per product. The registration shall be valid until December 31, 2012. After December 31, 2012, the registrant may renew a registration for a period of two years upon payment of a fee of four hundred dollars (\$400) per product.

(3) Registrants whose names begin with a numeric character shall follow the schedule for the first letter of the alphabetic spelling of said numeric character.

(4) All registrations issued by the department to a registrant who is applying to register an additional pesticide during the second year of the registrant's registration period shall expire December 31 of that year.

(5) An application for registration shall be accompanied by a fee of four hundred dollars (\$400) for each pesticide except as provided in subdivisions (1) and (2) above."

~~(b) Beginning October 1, 2011, the Commissioner of Agriculture and Industries shall annually publish in a conspicuous manner through newsletter, the Department's internet website, or other periodical published by the Department, the Department's determination of the national average for such product registrations. Registrants and other interested parties shall contact the Department of Agriculture and Industries in writing with any objections or suggestions to the determination of the national average. During the regular business of the final quarterly meeting for 2011 and every year thereafter of the Board of Agriculture and Industries, the determination of the national average shall be considered and set for the following calendar year. Registrations fees not paid by March 1, or within 60 days following its due date will pay a delinquency penalty of one hundred fifty dollars (\$150) per product in addition to the required registration fee.~~

(2) Pesticides sold, offered for sale, or distributed in the state under a federal and state experimental pesticide label must be labeled **For experimental use only**. Such label must be affixed to the container so as to be conspicuous, and easily read under normal conditions and circumstances. Persons selling, distributing, or otherwise supplying pesticides to users for experimental purposes and provide the Commissioner of Agriculture and Industries with the following information:

- (a) Quantity of the pesticide to be used in the state.
- (b) The chemical and common name of the pesticide.
- (c) The established tolerance levels for the pesticide as determined by the federal government where required.
- (d) Company personnel responsible for the experiment.

(3) After the conclusion of the experiment, experimental information gathered during the experiment shall be supplied the Commissioner, which will justify the manufacturer's contention that the pesticides were for experimental purposes under actual commercial use conditions.

Authors: Charles H. Barnes, John P. Hagood

Statutory Authority: Code of Ala. 1975, §§2-27-8, 2-27-9, 2-27-57.

History: Filed April 19, 1982. **Amended:** Filed August 16, 2004; effective September 20, 2004. **Amended:** Filed August 18, 2006; effective September 22, 2006. **Amended:** Filed August 10, 2011;