





STATE OF WEST VIRGINIA  
DEPARTMENT OF AGRICULTURE  
CHARLESTON  
25305

Gus R. Douglass  
Commissioner

For Immediate Release

January 9, 1981

AGRICULTURE PUBLIC HEARINGS

CHARLESTON, W.VA.--A public hearing to consider additions to the West Virginia Rules & Regulations covering Chapter 19, Article 16-b, Section 4-a, the West Virginia Pesticide Use & Application Act, will be held on Wednesday, February 11, 1981, at 10:00 A.M., in the John T. Johnson Conference Room in the basement of the East Wing of the State Capitol Building in Charleston, West Virginia.

Agricultural Commissioner Gus R. Douglass explained that the proposed Rules & Regulations are to regulate the aerial application of herbicides to right-of-ways. The Commissioner said that two informal hearings have been held within the last year and that the proposed regulations are based upon volunteer guidelines which were utilized during the 1980 spraying season and upon testimony delivered at the informal hearing called to evaluate the volunteer guidelines.

All interested persons are invited to attend the hearing. Interested parties may obtain copies of the proposed regulations or may submit written comments to Gus R. Douglass, Agriculture Commissioner, West Virginia Department of Agriculture, State Capitol Building, Charleston, WV 25305, prior to the date of the hearing.

WEST VIRGINIA DEPARTMENT OF AGRICULTURE

ADMINISTRATIVE REGULATIONS

Series 12-a

SUBJECT: Regulations to govern the aerial application of herbicides to right-of-ways.

AUTHORITY: These regulations are promulgated under authority of Chapter 19, Article 16-B, Section 4a.

EFFECTIVE DATE: These regulations become effective on \_\_\_\_\_.

SECTION 29. PRIOR NOTIFICATION.

- A. Public utilities and others intending to aerially apply herbicides on any right-of-way shall provide notification in writing, by mail, to the Pesticide Section of the West Virginia Department of Agriculture, to all news media within the counties where the herbicide application program is to be conducted, and to all households situated on plots of land, whether house lots, farms, woodland or other, located adjacent to the right-of-way at least 90 days and no more than 120 days prior to the anticipated beginning of the herbicide application program.
1. The notice shall include, but is not limited to:
    - a. concise description of the area(s) to be sprayed;
    - b. a toll-free telephone number of any office staffed by the utility to which people residing within the general area proposed for spray operations can call to alert the utility to areas where the application of herbicides may cause unreasonable adverse effects. (Such "sensitive" areas include springs, wells, streams, lakes, ponds, orchards, crop areas, gardens, pastures, meadows, buildings, dwellings, public recreation areas, roads and others);
    - c. an address to which the information detailed in A-1-b can be mailed or delivered in lieu of telephoning;
    - d. information detailing how a land owner or tenant can enter into a right-of-way maintenance agreement with the utility including general requirements, rates of compensation and the telephone number and mailing address of the utility office to be contacted about such;
    - e. the location of an office or offices or other place within the county where individuals may inspect property maps showing projected spray plans;
    - f. the name or names of the herbicides and the active ingredients involved that are proposed to be used for the project(s);
    - g. the address and telephone number of locations at which more detailed information on the chemicals proposed for use can be procured; and
    - h. the procedure to be used in lodging a complaint.
- B. The utility shall also provide weekly notices to the Pesticide Section of the Plant Pest Control Division of the West Virginia Department of Agriculture and shall publish in a newspaper of general circulation within each county in which the aerial application of herbicides is proposed, the locations and spraying schedules where herbicides are scheduled to be applied the following week. The initial notice each year shall be published on each of the two weeks immediately preceding

the proposed beginning of the aerial herbicide application season.

SECTION 30. PROCEDURAL PROHIBITIONS AND RESTRICTIONS.

- A. Aerial application of herbicides shall not be made when:
1. the wind velocity exceeds five (5) miles per hour;
  2. when the spray may come into contact with fog banks;
  3. during periods of temperature inversion and air stagnation;
  4. when the air temperature exceeds 90° Fahrenheit (except for low-volatile amines and chemicals whose volatility is not known to be a problem), and
  5. when the distance between the transmission line(s) and the ground is greater than 100 feet.
- B. Before herbicides are applied, the applicator shall fly a reconnaissance flight over the area to be sprayed and shall not apply herbicides if humans or animals are in areas subject to spraying.
- C. Herbicides shall not be applied to any body of water regardless of whether or not there is such a restriction on the herbicide label.

SECTION 31. THE FOLLOWING MINIMUM SPRAY DISTANCES SHALL BE ADHERED TO UNLESS GREATER DISTANCES ARE SPECIFIED ON THE SPRAY LABEL.

A. Phenoxy Formulations

	<u>Drift Control System</u>	<u>Standard System</u>
Ponds	100 feet	200 feet
Flowing Water	100 feet	200 feet
Cultivated Land, except Tobacco	100 feet	200 feet
Tobacco	200 feet	300 feet
Pasture Lands (cultivable)	100 feet	200 feet
Christmas Tree Plantations	100 feet	200 feet
Residential Structures	150 feet	300 feet
Public Recreation Areas	150 feet	300 feet
Other Structures	50 feet	100 feet
Road Crossovers	50 feet	100 feet

B. Formulations Containing Picloram & Dicamba

	<u>Drift Control System</u>	<u>Standard System</u>
*Ponds	100 feet	300 feet
*Flowing Water	100 feet	300 feet
Cultivated Land, except Tobacco	100 feet	300 feet
*Tobacco	500 feet	500 feet
Christmas Tree Plantations	100 feet	200 feet
Pasture Lands (Cultivable)	100 feet	300 feet
Public Recreation Areas	100 feet	300 feet
Residential Structures	150 feet	300 feet
Other Structures	50 feet	100 feet
Road Crossovers	50 feet	100 feet

\*In areas of extensive tobacco production these limits are to be extended at the discretion of the utility company or applicator to avoid any possible picloram contamination of lands in production of tobacco, lands of potential tobacco production, or waterways or water sources from which tobacco, tomatoes, peppers, etc., may be irrigated. If a field is contaminated with picloram, a utility representative must inform the land owner that said contaminated land may not be used for production of tobacco.

SECTION 32. COMPANY MONITORING OF HERBICIDE APPLICATIONS TO THEIR RIGHT-OF-WAYS.

Utility personnel shall inspect all their right-of-ways which have been sprayed with herbicides to insure that applicable standards have been adhered to and shall keep logs of such inspections on file for two years.