

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE

Chapter 19-2
1965

GENERAL INDEX
for
Series XII

WEST VIRGINIA PESTICIDE LAW

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Subject: WEST VIRGINIA PESTICIDE LAW.

Section 1 -GENERAL - Declaration of Policy.

1.01 Scope. These regulations establish general operating rules and procedures in the Pesticide Division.

1.02 Authority. These regulations are issued under authority of Chapter 19, Article 16-A, Code of West Virginia.

1.03 Effective Date. These regulations are promulgated on May 19, 1961 and become effective on May 19, 1961.

1.04 Filing Date. These regulations were filed in the Office of the Secretary of State on

1.05 Certification. These regulations are certified authentic by the Secretary of State by certification number

(a) Each economic poison sold in West Virginia must be registered with the Commissioner of Agriculture.

(b) All persons offering or exposing pesticides for sale including retailers, wholesalers, jobbers and brokers are equally responsible for full compliance with the pesticide law and any person who has in his possession any unlawful pesticide is responsible for compliance even to registration, labeling and other legal requirements.

(c) All rules and regulations will be made in as close conformity with federal regulations as this law will permit, and any other interpretations of this law will be made with the same consideration.

Section 2 -RULES AND REGULATIONS.

2.01 Pests declared by the Commissioner. Section 2 A (1) permits the Commissioner to declare additional pests to those listed in the law. The following are hereby declared to be pests:

- (1) Snails
- (2) Slugs

Section 3 -ECONOMIC POISONS IN FERTILIZERS AND OTHER CARRIERS.

3.01 Any economic poison which is distributed in a media such as fertilizers, feeds, etc., shall be considered the active ingredient and the media the inactive ingredient. All such mixtures must be registered as an economic poison.

Section 4 -TREATED CLOTH, LUMBER AND OTHER MATERIALS CLASSED AS DEVICES.

4.01 The term "device" shall include canvas and other cloth, lumber and other materials which have been treated and claims made which would indicate that these materials would repel, destroy or mitigate fungi, bacteria, insects or other plant or animal pests. No registration is required for devices.

Section 5 -FOISONS HIGHLY TOXIC TO MAN.

5.01 Section 5 A (2) authorizes the Commissioner to determine whether an economic poison is highly toxic to man. All materials which have been classified as highly toxic to man by the Federal authorities in the enforcement of the Federal insecticide, fungicide and rodenticide act are hereby declared highly toxic to man within the meaning of this law.

Section 6 -PRIOR APPROVAL BY FEDERAL GOVERNMENT DESIRABLE.

6.01 In submitting applications for the registration of an economic poison it is recommended that prior approval be obtained from the federal government and such approval be indicated on the application. The acceptance of applications not having federal approval may be delayed for an undetermined length of time due to the necessity of investigating all claims made relative to the economic poison.

Section 7 -ACTIVE INGREDIENTS.

7.01 The term "active ingredient" means, in the case of an economic poison any ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds or other pests.

Section 8 -TANKS, TRUCKS, BARRELS AND OTHER CONTAINERS TO CARRY LABELS.

8.01 As a precautionary measure all containers of economic poisons including but not limited to tank cars, tank trucks, drums, barrels, cartons, etc., must be labeled within the meaning of the law. All such materials which are labeled to meet the minimum requirements of the Federal Insecticide, Fungicide and Rodenticide Act will meet these labeling requirements.

Section 9 -CHANGES IN REGISTRATION.

9.01 Changes in registrations may be made without additional fees if:

- (1) There is a change of brand name only.
- (2) There is a change of the percent of ingredients only.
- (3) There is a change of directions only.
- (4) There is a change of label claim only.
- (5) There is a change of antidote.

Section 10 -COLORATION OF HIGHLY TOXIC ECONOMIC POISONS.

10.01 Section 3 A (4) provides for the coloration and discoloration of certain economic poisons. The white economic poisons hereinafter named shall be colored or discolored in accordance with this section. The hues, values and chromas specified are those contained in the Munsell Book of Color, Munsell Color Company, 10 East Franklin Street, Baltimore, Maryland

10.02 Coloring Agent. The coloring agent must produce a uniformly colored product not subject to change in color beyond the minimum requirements specified in the Regulations in this part during ordinary conditions of marketing or storage, and must not cause the product to be ineffective or result in its causing damage when used as directed.

10.03 Arsenicals and Barium Fluosilicate. Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, and barium fluosilicate shall be colored any hue except the yellow-reds and yellows, having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

10.04 Sodium Fluoride and Sodium Fluosilicate. Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

10.05 Notwithstanding the provisions of paragraph 10.03 and 10.04 of this section the Director, after opportunity for hearing, may permit other hues to be used for any particular purpose if the prescribed hues are not feasible for such purpose and if such action will not be injurious to the public.

Section 11 -FRACTIONAL YEAR REGISTRATIONS.

11.01 All registrations expire on December 31 next after date of issuance and no reduction in registration fees will be made for a fraction of a year.

Section 12 -ADVERTISEMENTS TO AGREE WITH REGISTRATION CLAIMS.

12.01 All claims made in advertisements of any manner must not be contrary or in addition to the claims filed upon securing the registration of the economic poison.

Section 13 -KEROSENE, SULFUR AND OTHER PRODUCTS TO BE REGISTERED IF CLAIMS ARE MADE FOR USE AS PESTICIDES.

13.01 There are many compounds used for the control of pests and for purposes not related to pest control. Such compounds as kerosene, sulfur, creosote, paradichlorobenzene, and sugar have a multiple number of uses. When such materials are packaged and intended to be marketed as an economic poison they must be registered and otherwise conform to the requirements of the law.

Section 14 -CONFIDENTIAL STATEMENTS.

14.01 When a person elects to register an economic poison as provided in Section 20 (2) he must file a confidential statement with the Commissioner setting forth the percentages of active ingredients therein.

Section 15 -NOTICE TO APPEAR BEFORE THE COMMISSIONER.

15.01 Section 5 B (2) provides that the Commissioner shall cause notice to be given to any person affected by a "stop sale order" and any person so notified shall be given an opportunity to be heard under such rules and regulations as the Commissioner may prescribe. Notices to appear

may be by registered mail or certified mail (delivery receipts requested) to the name and address appearing on the application for the registration of the economic poison or on the device being marketed. Failure of the post office to deliver this notice because of incomplete or inaccurate address on the registration will be considered as if the person so affected failed to appear.