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SECRETARY OF STATE  
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE  
CHARLESTON 25305

July 11, 1977

Honorable A. James Manchin  
Secretary of State  
Room W-151, State Capitol  
Charleston, West Virginia 25305

Dear Mr. Manchin:

This is notification of approval of rules or regulations in accordance with Section 11, Article 3, Chapter 29A of the West Virginia Code.

On July 11, 1977, the Legislative Rule-Making Review Committee approved regulations submitted by the Department of Agriculture concerning pesticide use and application. A copy of the approved regulations is attached.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert M. Steptoe".

Robert M. Steptoe  
State Senate

A handwritten signature in cursive script, appearing to read "William E. Shingleton".

William E. Shingleton  
House of Delegates

Cochairmen, Legislative  
Rule-Making Review  
Committee

JRH:cal

Enclosure

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 7/13/77

THE WEST VIRGINIA PESTICIDE USE AND  
APPLICATION ACT OF 1975

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

REGULATIONS

SECTION 22 - GENERAL

THIS DATE 5/9/77

22.01 Scope

These regulations are supplemental to Sections 1 through 21 of the REGULATIONS establishing general operating rules and procedures for the enforcement of the West Virginia Pesticide Use and Application Act of 1975 promulgated on the 19th day of November, 1975, and which became effective on the first day of January, 1976. These regulations establish the minimum requirements for structural pest control work on existing structures and on new construction.

22.02 Authority

These regulations are issued under authority of Chapter 19, Article 16B, Section 4, Code of West Virginia.

22.03 Effective Date

These regulations are promulgated on May 9, 1976, and become effective \_\_\_\_\_, \_\_\_\_\_, 1977.

22.04 Filing Date

These regulations were filed in the Office of the Secretary of State on May 9, \_\_\_\_\_, 1977.

22.05 Certification

These regulations are certified authentic by the Secretary of State.

SECTION 23 - DEFINITIONS

For the purpose of these supplemental regulations, the definitions shall be the same as those appearing in the West Virginia Pesticide Use and Application Act (19-16B-3) and in the Regulations, Section 3, with the following additions:

(a) The term "agreement" as used in these regulations means any written or verbal contract, accepted proposal, work order, guarantee, warranty, or combination of these.

(b) The term "basement" as used in these regulations means the floor below the principle floor and may be wholly or partially below grade and may be earthen or covered.

(c) The term "crawl space" means an area under a structure between the wood portions above and the soil, which cannot be considered as a floor, below.

(d) The term "existing structure" means any building or part thereof, whether vacant or occupied, in all stages of construction.

(e) The term "footer" or "footing" means the base or lower course upon which a foundation, pillar, pier, chimney, or other structure rests and may be below the surface of the ground or on the ground.

(f) The term "inside treatment" as used in these regulations means the application of pesticides for termite control to the soil in the area under a structure in a basement or crawl space or, in the case of slab-on-ground construction, it may mean any area inside a structure where a pesticide is applied through or under the slab.

(g) The term "outside treatment" as used in these regulations means the application of pesticides for termite control in the soil adjacent to the foundation, including porches, entry platforms, breezeways, etc., attached to the structure and underground as far as the footer.

(h) The term "new construction" as used in these regulations means any building or part thereof which is under construction and has not yet been occupied.

(i) The terms "rodding" and "injection" mean the insertion of pesticides into the soil by means of a pipe or hollow rod through which a pesticide is forced under pressure or when used in conjunction with a shallow trench, "rodding" may be the creation of holes made with a bar or rod in the soil.

(j) The term "slab-on-ground construction" means the erection of a structure, usually on the poured concrete floor, which may or may not have a foundation and footer and under which there is no open space. A brick, tile or gravel floor should be treated either as slab-on-ground or as exposed ground construction.

(k) The term "termite shelter tube" means the mud tube constructed upon walls, pipes or other surfaces, or freestanding from the ground to the wood above, by subterranean termites.

(l) The term "trenching" as used in these regulations means the removal of the soil in contact with the foundation, pillar, pier, chimney, etc.

(m) The term "unit masonry foundation" as used in these regulations means foundation construction using concrete, cinder, or other blocks with voids, hollow tile blocks, bricks with space between tiers, etc.

(n) The term "use dilution" as used in these regulations means the concentration of a mixed pesticide prepared for application to control or abate pests according to its registered label.

## SECTION 24 - MINIMUM REQUIREMENTS FOR TERMITE CONTROL ON STRUCTURES IN WEST VIRGINIA

### 24.01 Pesticides

(a) No person shall apply any pesticide to control termites in structures unless such pesticides are registered for termite control by the United States Environmental Protection Agency and by the West Virginia Department of Agriculture.

(b) Pesticides used to control termites must be mixed and used according to the directions of the registered label.

(c) Special care must be exercised, when making applications of pesticides to control termites, to avoid contamination of water sources.

## SECTION 25 - MINIMUM REQUIREMENTS FOR TERMITE CONTROL ON EXISTING STRUCTURES IN WEST VIRGINIA

25.01 LICENSED APPLICATORS engaged in termite control on Existing Structures shall, as a minimum measure for termite control, make pesticide applications according to the following procedures:

### A. STRUCTURES WITH BASEMENTS

#### 1. Outside Treatment

(a) Poured concrete foundations. For solid concrete foundations, the soil must be treated to a depth of at least one foot below grade completely around the structure by rodding and/or trenching. The rate of application must be according to the directions on the registered label for the pesticide being used. When a poured concrete foundation is cracked, the treatment used at the site of the crack and for at least 4 feet on either side of the crack, shall be the same as that required for unit masonry foundation, which follows:

(b) Unit Masonry Foundations. Soil treatment shall extend to the top of the footing. The rate of application must be according to the registered label of the pesticide being used. Applications may be made by trenching, rodding or pressure injection or a combination of these methods. The pesticide must reach the footer and be evenly distributed to grade.

The voids of unit masonry foundation walls must be treated at the minimum rate of one gallon of use dilution pesticide for each 5 lineal feet around the entire structure, unless the directions on the registered label of the pesticide being used specifically states otherwise, in which case the label directions must be followed.

(c) Attached porches, entrance platforms, utility entrances, patios, driveways, and similar structures where a solid slab abutting the foundation exists at ground level, shall be treated by drilling the slab at least every 18 inches and injecting the pesticide at the rate provided on the registered label into the soil beneath. When the slab is above grade and filled below, the fill shall be similarly treated. When a crawl space exists under the attached structure the soil adjacent to the foundation shall be treated as in (b) above. Piers, pillars, etc., shall be treated as masonry foundations and any voids in unit masonry piers or pillars should be treated as in (b) above.

#### 2. Inside Treatment

(a) The soil under the basement floor adjacent to the foundation, whether the foundation is unit masonry or poured, must be treated by drilling through the slab and injecting the pesticide at the rate of application specified on the registered label for the pesticide being used. Interior structural masonry walls, pillars, piers, and other similar items, shall be similarly treated.

Voids in unit masonry foundation walls in the area of filled porches, entrances, and other similar areas, may have to be drilled and treated from the inside when outside treatment of the voids is impossible due to the attached structure.

## B. SLAB-ON-GROUND CONSTRUCTION

### 1. Outside Treatment

A treatment shall be made along the outside of the foundation walls and the outside walls of the attached porches, entry ways, etc. Trench or rod to the top of the footer but no deeper than 30 inches. Pesticide treatments shall be made in the manner as prescribed for structures with basements. (See A above). Voids in unit masonry foundation walls should be treated as in structures with basements. (See A above).

### 2. Inside Treatment

The soil under the slab adjacent to the foundation shall be treated with a pesticide at the rate of application provided for on the registered label of the pesticide being used. In some instances this may be done by drilling completely through the foundation wall from the outside and in other instances the slab will need to be drilled from the inside. The soil under porches or entry floors, whether filled or with a crawl space, shall be treated as structures with basements as in A above. The soil under patios, driveways, walks, and other places where they abut the foundation shall be treated as structures with basements as in A above. The soil under expansion joints, cracks in the slab and other openings in the slab shall be treated by drilling and injection of the toxic chemical at the rate prescribed on the registered label of the pesticide being used. Care must be exercised to avoid damage to underground utilities. Building plans should be consulted prior to drilling if possible.

Voids in unit masonry foundation walls in the area of filled porches, entrances, and other similar units, may have to be drilled and treated from the inside when outside treatment of the voids is impossible due to the attached structure.

## C. CRAWL SPACE CONSTRUCTION

### 1. Outside Treatment

Treatment around the perimeter of crawl space construction structures shall be identical to that prescribed for structures with basements in A-1 above.

### 2. Inside Treatment

Treatments shall be made according to the direction on a registered label for that pesticide for termite control.

All wood scraps and other materials containing cellulose large enough to be picked up or raked up with a common garden rake shall be removed from under the structure. All termite shelter tubes shall be removed prior to application of the pesticide. If termite shelter tubes have been built away from the foundation, pillars or piers, the infested area of ground shall be treated according to directions on the registered label.

### 3. Porches or Entrance Platforms

Treatments around piers, foundations, or pillars shall be done in the same manner as treatments under the structure, or if these are above grade

and filled treat as in structures with basements as in A-1.(c) above.

D. The procedures detailed in the previous sections: A-STRUCTURES WITH BASEMENTS, B-SLAB-ON-GROUND CONSTRUCTION, and C-CRAWL SPACE CONSTRUCTION shall be the minimum treatment procedures for termite control in West Virginia when a guarantee or warranty is issued indicating or implying that complete termite control has been performed. Treatments made by any procedure not meeting these requirements shall be termed PARTIAL TREATMENTS in any written or verbal agreements whether or not a guarantee of termite control is issued.

## SECTION 26 - TERMITE CONTROL FOR NEW CONSTRUCTION (PRE-TREAT) IN WEST VIRGINIA

### 26.01

A. LICENSED APPLICATORS engaged in the business of applying pesticides for termite control on new structures (Pre-treat) before or during construction must meet all of the minimum requirements given for existing structures. The area where a slab is to be poured shall be additionally treated with a pesticide at the rate prescribed on the registered label of the pesticide being used for termite control.

B. Any pre-treatment for termite control that does not meet these minimum requirements shall be referred to as PARTIAL PRE-TREATMENT in any written or verbal agreements whether or not a guarantee of termite control is issued.

## SECTION 27 - EXCEPTIONS

A. When a Licensed Applicator in the category of Structural Pest Control is doing Termite Control or Pre-treatment to control termites according to specifications set forth in a bid proposal which do not meet these minimum requirements, he shall not be in violation of these regulations Providing that the specifications under which he is working are available to the Commissioner and that the application does not conflict with the registered label of the pesticide being used for termite control.

B. When any unusual structural or physical conditions render it impractical to comply with all of the minimum requirements of these regulations, the Licensed Applicator will not be in violation of these regulations providing the unusual condition has been explained in writing to the person purchasing the service and that the parts of the structure being treated which are not involved in the unusual condition are treated according to these minimum requirements.

## SECTION 28 - EFFECTIVE DATE

### 24.01

Done in the Office of the Commissioner, West Virginia Department of Agriculture, Capitol Building, Charleston, West Virginia, 25305, this \_\_\_\_\_ day of \_\_\_\_\_, 1976, to become effective the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.