



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON
25305

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1986 JUN 13 PM 2:47
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Gus R. Douglass
Commissioner

NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULE: West Virginia Pesticide Use & Application Act
SERIES XIIa

The attached rule constitutes the official rule approved by the West Virginia Department of Agriculture on June 13, 1986, and filed pursuant to law with the West Virginia Secretary of State and the Legislative Rule Making Review Committee.

Gus R. Douglass
Agriculture Commissioner

SYNOPSIS OF REGULATION CHANGE TO SECTION 13

FINANCIAL SECURITY REQUIRED OF LICENSED PESTICIDE APPLICATION BUSINESSES

The financial security or liability insurance required of businesses applying pesticides for hire has become increasingly difficult or impossible to obtain for many companies. The amendments to Section 13 of the above listed regulations will enable companies to stay in business and, at the same time, provide adequate protection for the citizens of the State and meet the statutory requirements mandated by the Legislature in Chapter 19, Article 16B, Section 15.

The companies affected by the tightening insurance requirements provide pest control services to homes, hospitals, restaurants, warehouses and public buildings; maintain right-of-ways to provide for uninterrupted electricity and fuel services; and protect the State's crops, to assure an adequate supply of food, fiber and energy to the people of West Virginia. These amendments are necessary for the immediate preservation of the health, safety and welfare of the public.

The minimum limits of liability under the old regulations were Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death each occurrence and One Hundred Thousand Dollars (\$100,000.00) for property damage resulting from the use or misuse of pesticides for all categories of ground applicators. Aerial applicators minimum requirements were Three Hundred Thousand Dollars (\$300,000.00) bodily injury or death each occurrence and Two Hundred Thousand Dollars (\$200,000.00) for property damage resulting from the use or misuse of pesticides.

The new regulations specify the type of insurance to be required as being of Comprehensive General Liability with a Broad Form General Liability supplement in a minimum amount of Three Hundred Thousand Dollars (\$300,000.00) combined single limit for bodily injury or death and property damage for ground applicators, and Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death and One Hundred Thousand Dollars (\$100,000.00) for property damage for aerial applicators. In the event the insurance specifically excludes liability arising from the purposeful use of pesticides then the applicator must secure an additional rider or surety bond in a minimum amount of Twenty Five Thousand Dollars (\$25,000.00) to provide such financial security.

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BRIEF SUMMARY OF CONTENT OF PROPOSED REGULATIONS
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

These Legislative regulations establish general operating rules and procedures for the enforcement of the West Virginia Pesticide Use & Application Act (Article 16B) including, but not limited to, the certification of users of restricted use pesticides, the licensing of firms applying pesticides for hire, restricted use pesticides and the dealers in restricted use pesticides, record keeping and standards for certification and licensing.

The amendments to Section 13 of the above listed regulations will enable companies to stay in business and, at the same time, provide adequate protection for citizens of the State and meet the statutory requirements mandated by the Legislature in Chapter 19, Article 16B, Section 15.

FISCAL NOTE FOR PROPOSED RULES

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Rule Title: West Virginia Pesticide Use and Application Act OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Type of Rule: Legislative Interpretive Procedural

Agency W.Va. Dept. of Agriculture Address Guthrie Agricultural Center,
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ NONE	\$ NONE	\$ NONE	\$ 00	\$ NONE
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.

The proposed change will not effect current procedures.

3. Objectives of these rules:

The amendment of Section 13 will reflect the current trends of insurance available to Licensed Pesticide Application Businesses. The current requirements are no longer available to many segments of the industry.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

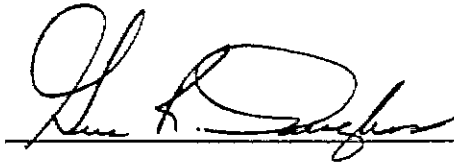
These rules will enable many pesticide application businesses to remain in business. Without the changes, some companies will be freed to close and their services will no longer be available.

C. Economic Impact on Citizens/Public at Large.

NONE

Date April 11, 1986

Signature of Agency Head or Authorized Representative



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DATE: June 13, 1986

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TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FROM: West Virginia Department of Agriculture

LEGISLATIVE RULE TITLE: West Virginia Pesticide Use & Application Act

1. Authorizing statute(s) citation W. Va. Code 19-16B-4

2. a. Date filed in State Register with Notice of Hearing:

April 8, 1986

b. What other notice, including advertising, did you give of the hearing?

Market Bulletin and statewide news release

c. Date of hearing (s): May 22, 1986

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact)

June 13, 1986

f. Name and phone number of agency person to contact for additional information:

William H. Gillespie, Assistant Commissioner

Telephone 348-2203 or 348-3550

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

NA

b. Date of hearing: NA

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE
Chapter 19-16B

FILED

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SERIES XIIa

TITLE: West Virginia Pesticide Use and Application Act

OFFICE OF THE SECRETARY OF STATE

Section 1. General

1.1 Scope - These Legislative regulations amend and promulgate Section 1 through 20 of the regulations and establish general operating rules and procedures for the enforcement of the West Virginia Pesticide Use and Application Act as Amended 1981 (Article 16B) including, but not limited to, the certification of users of restricted use pesticides, the licensing of firms applying pesticides for hire, restricted use pesticides and the dealers in restricted use pesticides, record keeping and standards for certification and licensing.

1.2 Authority - W. Va. Code 19-16B-4

1.3 Filing Date -

1.4 Effective Date -

1.5 Amendment of Former Regulation - This Legislative regulation amends the following West Virginia Pesticide Use and Application Act, Series XIIa, Section 1.3; 1.4; 13.1; 13.2.

Section 2. Declaration of Policy

Article 16B, Chapter 19, Code of West Virginia places the enforcement of the West Virginia Pesticide Use and Application Act with the Commissioner and empowers him to promulgate rules and regulations for regulation in the public interest of the use and application of pesticides in West Virginia.

Section 3. Definitions

3.1 For the purpose of these regulations, the definitions shall be the same as those appearing in the West Virginia Pesticide Use and Application Act (19-16B-3).

3.1.1 The term "accident" means an unexpected, undesirable event, resulting in the presence of a pesticide, that adversely effects man or the environment.

3.1.2 The term "Act means the West Virginia Pesticide Use and Application Act (19-16B)

3.1.3 The term "consistent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.

3.1.4 The term "fumigant" means a gaseous or readily volatilizable chemical (as hydrogen cyanide or methyl bromide) used as a disinfectant or pesticide.

3.1.5 The term "fumigation" means the application of a fumigant to one or more rooms in a structure, or to the entire structure such as a box car, aircraft, truck, ship or any object sealed or covered.

3.1.6 The term "regulated pest" means a specific organism considered by the state or by a federal agency to be a pest requiring regulatory restrictions, regulations or control procedures in order to protect man or the environment.

Section 4. Restricted Use Pesticides

4.1 This section is reserved for the West Virginia Restricted Use Pesticide List. (See Appendix Number I)

Section 5. Categorization of Commercial Applicators

5.1 Procedure - - - - -

5.1.1 Categories and sub-categories of applicators (other than private applicators) who use or supervise the use of restricted use pesticides are identified below. Public employees using or supervising the use of restricted use pesticides are Certified Public Applicators in the categories and sub-categories identified below and are categorized as Commercial Applicators with respect to Restricted Use Pesticides.

5.1.2 It shall be understood throughout these regulations that, according to 19-16B-8(2), all persons applying any pesticides as, or for, a Licensed Pesticide Application Business, whether or not they are applying or supervising the application of restricted use pesticides, must be a commercial applicator or be under the supervision of a commercial applicator certified in the appropriate category or sub-categories identified below and that the fact that their need for certification, whether or not the pesticides are for restricted use, will not be specifically pointed out in the description of each category or sub-category to follow.

5.2 Agriculture Plant Pest Control Category - This category includes commercial applicators using or supervising the use of restricted use pesticides in the production of agricultural crops, including without limiting the foregoing, tobacco, peanuts, cotton, feed grains, soybeans and forage, vegetables, small fruits, tree fruits and nuts, as well as on grasslands and non-crop agricultural lands.

5.2.1 Sub-Category A-1 Agricultural Plant Pest Control Aerial Applicator - This sub-category includes commercial applicators using or supervising the use of restricted use pesticides applied by any type of aircraft in the production of agricultural crops, including without limiting the foregoing, tobacco, peanuts, cotton, feed grains, soybeans, and forage, vegetables, small fruits, tree fruits, and nuts, as well as on grasslands and non-crop agricultural lands.

5.3 Animal Pest Control - This category includes commercial applicators using or supervising the use of restricted use pesticides on swine, sheep, horses, goats, poultry and livestock, and to places on or in which animals are confined.

5.4 Forest Pest Control Category - This category includes commercial applicators using or supervising the use of restricted use pesticides in forests, forest nurseries, and forest seed producing areas.

5.4.1 Sub-Category A - Aerial Forest Pest Control - This category includes commercial applicators using or supervising the use of restricted use pesticides applied by any type of aircraft in forests, forest nurseries and forest seed producing areas.

5.5 Ornamental and Turf Pest Control Category - This category includes commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers and turf.

5.5.1 Sub-Category A - Aerial Ornamental and Turf Pest Control - This category includes commercial applicators using or supervising the use of restricted use pesticides applied by any type of aircraft to control pests in the maintenance and production of ornamental trees, shrubs, flowers and turf.

5.6 Seed Treatment Category - This category includes commercial applicators using or supervising the use of restricted use pesticides on seeds.

5.7 Aquatic Pest Control Category - This category includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in category 5.10.1 below.

5.7.1 Sub-Category A - Aerial Aquatic Pest Control - This category includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied by means of any type of aircraft to standing or running water.

5.8 Right-Of-Way Pest Control Category - This category includes commercial applicators using or supervising the use of restricted use pesticides in the maintenance of roads, electric powerlines, pipelines, railway rights-of-way or other similar areas.

5.8.1 Sub-Category A - Aerial Right-of-Way Pest Control includes commercial applicators using or supervising the use of restricted use pesticides applied by any type of aircraft in the maintenance of roads, electric powerlines, pipelines, railway rights-of-way or other similar areas.

5.9 Industrial, Institutional, Structural and Health Related Pest Control - Commercial applicators in this category are sub-categorized as follows:

5.9.1 General Pest Control - This sub-category includes commercial applicators using or supervising the use of restricted use pesticides in, on, or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent areas, public or private; and for the protection of stored, processed, or manufactured products except that this sub-category does not include applicators using fumigants (other than fumigants used out-of-doors in rodent burrows that do not lead into dwellings or other structures), nor does it include applicators engaged in termite or other structural pest control.

5.9.1.1 Treating emergency crevices or ant runways to control carpenter ants or treatments made to control carpenter bees or surface application of sprays to control wood borers in furniture or lumber shall not be considered to be structural pest control.

5.9.2 Structural Pest Control - This sub-category includes commercial applicators using or supervising the use of restricted use pesticides to control termites, powder post beetles, or other wood-destroying pests infesting human dwellings, schools, hospitals, stores, warehouses or any other structure and adjacent areas.

5.9.3 Fumigation Pest Control - This sub-category includes commercial applicators using or supervising the use of restricted use pesticides to fumigate human dwellings, schools, hospitals, stores, warehouses, grain elevators, or any other structure including box cars, trucks, automobiles, shipping containers, boats, barges or ships, or other similar objects as well as commodities such as lumber, hay or straw, food products, soil, bags or other objects whether they are in structures or fumigated out-of-doors.

5.9.4 Industrial, Institutional Vegetation Management - This sub-category includes commercial applicators using or supervising the use of restricted use pesticides to control unwanted vegetation around industrial or institutional structures on grounds, storage yards, substations or other areas exclusive of rights-of-way but may include vegetation management along driveways or access roads to the above type sites. Individuals desiring aerial applicator certification in this sub-category must hold a valid Agricultural Applicator Certification from the United States Federal Aviation Agency.

5.9.5 Health Related Pest Control - This sub-category includes commercial applicators using or supervising the use of restricted use pesticides to control pests having medical or public health importance in other than aquatic sites. Individuals desiring aerial applicator certification in this sub-category must hold a valid Agricultural Applicator Certification from the United States Federal Aviation Agency.

5.10 Certified Public Applicator Category - In addition to the categories and sub-categories identified above in which a public employee under the law may be classified, the following additional sub-categories are identified below:

5.10.1 Sub-Category A - Public Health Pest Control - This sub-category includes state, federal or other governmental employees using or supervising the use of restricted use pesticides in public health programs for management and control of pests having medical and public health importance.

5.10.2 Regulatory Pest Control - This sub-category includes state, federal or other governmental employees who use or supervise the use of restricted use pesticides in the control of regulated pests.

5.11 Demonstration and Research Pest Control Category - This category includes individuals who demonstrate to the public the proper use and techniques of application of restricted use pesticides or supervise such demonstration.

5.11.1 This category also includes persons conducting field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides.

5.11.2 Included in the Demonstration Pest Control category are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The Research Pest Control category includes: State, Federal, commercial and other persons conducting field research on or utilizing restricted use pesticides.

5.12 Other Categories or Sub-Categories - The commissioner may, after a public hearing, add additional categories or sub-categories as needed for the certification of commercial applicators.

Section 6. Standards for Certification of Commercial Applicators (Including Certified Public Applicators)

6.1 Determination of Competency - Competency in the use and handling of pesticides shall be determined on the basis of written examinations, and, as appropriate, performance testing, based upon standards set forth below and which are approved by the Commissioner. Such examination and testing shall include the general standard applicable to all categories and the additional standards specifically identified for each category or sub-category (if any) in which an applicator is to be classified. Written examinations shall be given at such times and places as the commissioner may direct. Correctly answering seventy percent or more of the questions shall be considered to be satisfactory evidence of competence. Failure to answer at least 70% of the questions correctly shall be grounds for denial of certification and at least thirty (30) days must pass before an applicant may apply for re-examination. No fee shall be required for re-examination.

6.2 General Standard For All Categories Of Certified Commercial Applicators - All commercial applicators shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems and situations appropriate to the particular category or sub-category of the applicator's certification and the following areas of competency:

6.2.1 Label and Labeling Comprehension

- 6.2.1.1 The general format and terminology of pesticide labels and labeling;
- 6.2.1.2 The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;
- 6.2.1.3 Classification of the product, general or restricted: and
- 6.2.1.4 Necessity for use consistent with the label.

6.2.2 Safety -

- 6.2.2.1 Pesticide toxicity and hazard to man and common exposure routes;
- 6.2.2.2 Common types and causes of pesticide accidents;
- 6.2.2.3 Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;
- 6.2.2.4 Need for and use of protective clothing and equipment;
- 6.2.2.5 Symptoms of pesticide poisoning;
- 6.2.2.6 First aid and other procedures to be followed in case of pesticide accident; and,
- 6.2.2.7 Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and pesticide containers.

6.2.3 Environment - The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:

- 6.2.3.1 Weather and other climatic conditions;
- 6.2.3.2 Types of terrain, soil or other substrate;
- 6.2.3.3 Presence of fish, wildlife and other non-target organisms; and,
- 6.2.3.4 Drainage patterns.

6.2.4 Pests - Factors such as:

- 6.2.4.1 Common features of pest organisms and characteristics of damage needed for pest recognition;

- 6.2.4.2 Recognition of relevant pests; and,
- 6.2.4.3 Pest development and biology as it may be relevant to problem identification and control.
- 6.2.5 Pesticides - Factors such as:
 - 6.2.5.1 Types of pesticides;
 - 6.2.5.2 Types of formulations;
 - 6.2.5.3 Compatibility, synergism, persistence and animal and plant toxicity of the formulations;
 - 6.2.5.4 Hazards and residues associated with use;
 - 6.2.5.5 Factors which influence effectiveness or lead to such problems as resistance to pesticides; and,
 - 6.2.5.6 Dilution procedures.
- 6.2.6 Equipment - Factors including:
 - 6.2.6.1 Types of equipment and advantages and limitations of each type; and,
 - 6.2.6.2 Uses, maintenance and calibration.
- 6.2.7 Application Techniques - Factors including:
 - 6.2.7.1 Methods of procedure used to apply various formulations of pesticides, solutions, and gases, together with a knowledge of which technique of application to use in a given situation;
 - 6.2.7.2 Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and,
 - 6.2.7.3 Prevention of drift and pesticide loss into the environment.

6.3 Specific Standards of Competency for Each Category of Commercial Applicators - Some of the factors referenced in this section are of particular importance of the different types of activities carried out by applicators in each category. For example, practical knowledge of drift problems should be required of agricultural applicators but not of seed treatment applicators. The latter, however, should be particularly knowledgeable of the hazards of the misuse of treated seed and the necessary precautionary techniques. Commercial applicators in each category shall be particularly qualified with respect to the practical knowledge standards elaborated below:

6.3.1 Agricultural Plant Pest Control Category - Applicators must demonstrate practical knowledge of crops grown and the specific pests of those crops on which they may be using restricted use pesticides. The importance of such competency is amplified by the extensive areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of restricted use pesticides in agricultural areas.

6.3.1.1 Sub-Category A - Agricultural Plant Pest control Aerial Applicator - In addition to demonstrating competence in the specific standards for the sub-category Agricultural Plant Pest Control, the aerial applicator must hold a valid Agricultural Applicator Certification from the Federal Aviation Agency.

6.3.2 Animal Pest Control - Applicators applying pesticides directly to animals must demonstrate practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity and residue potential, since most animals will frequently be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation, application, application techniques, age of animals, stress and extent of treatment.

6.3.3 Forest Pest Control - Applicators shall demonstrate practical knowledge of types of forests, forest nurseries, and forest seed production in West Virginia and the pests involved. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and frequently include natural aquatic habitats and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicator must therefore demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects on wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

6.3.3.1 Sub-Category Ag- Aerial Forest Pest Control - In addition to demonstrating competence in the specific standards for sub-category Forest Pest Control, the aerial applicator must hold a valid Agricultural Applicator Certification from the Federal Aviation Agency.

6.3.4 Ornamental and Turf Pest Control - Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including cognizance of potential phytotoxicity due to a wide

variety of plant material, drift and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitation to application activities, applicators in this category must demonstrate practical knowledge of application methods which will minimize or prevent hazards to humans, pets, and other domestic animals.

6.3.4.1 Sub-Category A - Aerial Ornamental and Turf Pest Control - In addition to demonstrating competence in the specific standards for the sub-category Ornamental and Turf Pest Control, the aerial applicator must hold a valid Agricultural Applicator Certification from the Federal Aviation Agency.

6.3.5. Seed Treatment Category - Applicators shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers and surface active agents which influence pesticides binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seeds.

6.3.6 Aquatic Pest Control Category - Applicators shall demonstrate practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited area applications.

6.3.6.1 Sub-Category A - Aerial Aquatic Pest Control - In addition to demonstrating competence in the specific standards for the sub-category Aquatic Pest Control, the aerial applicators must hold a valid Agricultural Applicator Certification from the Federal Aviation Agency.

6.3.7 Rights-of-Way Pest Control Category - Applicators shall demonstrate a practical knowledge of a wide variety of environments, since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems on runoff, drift, and excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities in the adjacent areas and communities.

6.3.7.1 Sub-Category A - Aerial Right-of-Way Pest Control - In addition to demonstrating competence in the specific standards for the sub-category Right-of-Way Control, the aerial applicator must hold

a valid Agricultural Applicator Certification from the Federal Aviation Agency.

6.3.8 Industrial, Institutional, Structural and Health Related Pest Control Category - Applicators in each sub-category of this category (General, Structural, Fumigation and Vegetation Management and Health Related Pest Control), must demonstrate a practical knowledge of a wide variety of pests, including their life cycles, types of formulation appropriate for their control, and methods of application used in the applicators sub-category that avoid contamination of food, damage and contamination of habitat, and exposure of people and pets. Since human exposure, including babies, children, pregnant women, and elderly people, is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in these sub-categories. Because health related pest control may involve outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions, particularly related to this activity.

6.3.9 Certified Public Applicator Category -

6.3.9.1 Sub-Category A - Public Health Pest Control - Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests is involved, and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal, and drainage.

6.3.9.2 Sub-Category B - Regulatory Pest Control - Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulations of pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their knowledge shall extend beyond that required by their immediate duties, since their services are frequently required in other areas where emergency measures are invoked to control regulated pests and where individual judgements must be made in new situations.

6-3-10 Demonstrations and Research Pest Control Category - Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is

required. Further, they should demonstrate an understanding of pesticide-organism inter-actions and the importance of integrating pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all of the standards detailed in section 6.2 above. In addition, they shall meet the specific standards required for categories 6.3.1 through 6.3.7 of this section as may be applicable to their particular activity.

6.3.10.1 Persons conducting field research or method improvement work with restricted use pesticides would be expected to know the general standards detailed in 6.2 above. In addition, they shall be expected to know the specific standards required for section 6.3.1 through 6.3.9 of this section, applicable to their particular activity, or alternatively, to meet the more inclusive requirements listed under "Demonstration".

6.4 Special Standards - This space reserved for possible issuance of Special Standards, after due public hearing.

6.5 The Above Standards Do Not Apply To The Following Persons For Purpose of These Regulations:

6.5.1 Persons conducting laboratory type research involving restricted use pesticides; and,

6.5.2 Doctors of Medicine, Doctors of Osteopathy, and Doctors of Veterinary Medicine apply pesticides as drugs of medication during the course of their normal practice.

6.6 Standards For Licensed Pesticide Application Business License -

6.6.1 Persons applying for a Licensed Pesticide Application Business License shall be expected to demonstrate a knowledge and understanding of the state and federal pesticide laws, safe use and storage of pesticides, and the basis of the work to be done under the classification or classifications for which application for license is being made.

6.6.2 The classification of Licensed Pesticide Application Business License shall include agricultural pest control, forest pest control, ornamental and turf pest control, seed treatment, aquatic pest control, right-of-way pest control, general pest control, fumigation pest control, vegetation management, health related and structural pest control. Separate sub-classifications for aerial applicators license apply to agricultural pest control, forest pest control, ornamental and turf pest control, aquatic pest control, vegetation management and health related and right-of-way pest control.

Section 7. Standards for Certification of Private Applicators -

7.1 Standards - Competence in the use and handling of pesticides

by a private applicator will be determined by procedures set forth below. As a minimum requirement for certification a private applicator must show that he possesses a practical knowledge of the pest problems and pest control practices associated with his agricultural operations; and his related legal responsibility. This practical knowledge includes ability to:

7.1.1 Recognize common pests to be controlled and damage caused by them.

7.1.2 Read and understand the label and labeling information - including the common name of pesticides he applies; pest(s) to be controlled, timing and methods of application; safety precautions; any pre-harvest or re-entry restrictions; and specific disposal procedures.

7.1.3 Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation.

7.1.4 Recognize local environmental situations that must be considered during application to avoid contamination.

7.1.5 Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.

7.2 Determination of Competency - Such competence of each private applicator shall be verified by the administration of a private applicator certification system which ensures that the private applicator is competent, based upon the standards set forth above, to use the restricted use pesticides under limitations of applicable state and federal laws and regulations. The certification system shall employ a written or oral demonstration of competence, or such other equivalent system as may be approved by the commissioner. Failure to demonstrate competence by correctly answering at least 70% of the questions asked shall be grounds for denial of certification. However, the applicant may apply for re-examination.

7.3 Provisions for Illiteracy - In any case where a person, at the time of testing for certification, is unable to read a label, the commissioner may employ a testing procedure, previously approved by the Administrator, United States Environmental Protection Agency, which can adequately assess the competence of such person with regard to all of the above standards. Certification must be related and limited to the use and handling of each individual pesticide for which he desires certification at any time. Therefore, the applicator will be authorized to use only the pesticides for which he has demonstrated competence.

7.3.1 Such demonstration of competence must include the

recognition of the common or trade name of the pesticide as well as the label. In addition, the demonstration of competence must include the ability to verbally tell the registered uses of the pesticide as they apply to the applicators intended uses, the recommended doses, the proper times of application for the particular pests to be controlled, safety precautions, handling and disposal of the pesticide and its container. In addition, the applicator must demonstrate that he understands any re-entry or pre-harvest restrictions that apply to the particular pesticide and must know the various sources of advice and guidance available to him to assist him in understanding the safe and proper use of each pesticide related to his certification.

Section 8. Standards For Supervision of Non-Certified Applicators By Certified Private and Commercial Applicators -

8.1 General - Certified applicators whose activities indicate a supervisory role must demonstrate a practical knowledge of federal and state supervisory requirements, including labeling, regarding the application of restricted use pesticides by non-certified applicators.

8.1.1 The availability of the certified applicator must be directly related to the hazard of the situation, the complexity of the application or the ability to readily communicate with the non-certified applicator.

8.2 Supervision in Fumigation or Structural Pest Control - In the case of Fumigation Pest Control a certified commercial applicator certified in fumigation pest control must be physically present to apply or supervise the application of fumigants. In the case of Structural Pest Control pesticide applications a certified applicator certified in structural pest control must be physically present to apply or supervise the application of pesticides or must provide the applicator being supervised specific written instructions which shall include but not be limited to:

8.2.1 The address or location of the structure to be treated.

8.2.2 The name (and address if different than 8.2.1) of the owner, manager, tenant or other person ordering the structural pest control work to be done.

8.2.3 The name of the certified commercial applicator supervising the use of the pesticides.

8.2.4 The pest or pests against which the pesticide(s) are to be applied.

8.2.5 The pesticide(s) to be used including the product name.

8.2.6 A diagram of the structure to be treated showing the sites at which pesticides are to be applied, hazard sites, such as wells, the location(s) of actual pest infestations if any exist and any other information pertinent to the application of pesticides at the particular site.

8.2.7 Special precaution orders for the applicator's safety such as the use of protective clothing, respirators or other safety gear.

8.2.8 The name(s) of the persons making the pesticide applications.

8.2.9 The date(s) pesticides are to be applied and the quantity of each pesticide to be used.

8.2.10 Specific instructions for contacting the supervising certified applicator.

8.3 When the persons applying pesticides to a structure must deviate from the written instructions of the supervising certified applicator, such deviation must be noted on or attached to the written instructions and signed by the applicator or on site supervisor. These specific written instructions and other details shall be considered as pesticide use records and shall be maintained for at least three years.

8.4 In other situations the pesticide label may require the certified applicator to be physically present. When the certified applicator is not required to be physically present, "direct supervision" shall include verifiable instructions to the competent person, as follows:

8.4.1 Detailed guidance for applying the pesticide property, and

8.4.2 Provisions for contacting the certified applicator in the event he is needed.

Section 9. Federal Agency Pesticide Applicators -

9.1 Certification - When an employee of any agency of the United States Government has been qualified in any category as competent to apply restricted use pesticides under the Government Agency Plan (GAP), or under other plans judged by the commissioner to be at least equal to the West Virginia Plan, such employee will be certified by the commissioner in the same category or categories without the need for a written examination nor for the payment of any fee.

9.2 Qualification For Certification - Federal employees qualified under an acceptable federal plan to apply restricted use pesticides, and who intend to apply restricted use pesticides in West Virginia as a part of their agency work, shall present their qualifying documents to the Commissioner and, if acceptable, these documents will be endorsed

or a state document will be issued which will permit the federal employee to use restricted use pesticides in West Virginia.

9.3 Emergency Situations - If, in an emergency situation, federal employees are brought into West Virginia to control or eradicate pests, and when these employees have been properly qualified to use restricted use pesticides under the plan of another state or under an acceptable federal government agency plan, such employee will be considered to be certified in West Virginia and he or his agency must, within 10 days, present qualifying credentials to the commissioner. At this time, state credentials will be issued if the employee is to remain in West Virginia as an applicator of restricted use pesticides. The provisions of this section do not apply to non-federal employees contracted to perform pesticide applications for the federal government. In an emergency, however, and with the concurrence of the commissioner, a properly certified federal applicator may act in a supervisory capacity of a non-federal applicator provided that applicator is properly certified in West Virginia or under the plan of another state. Within 10 days such non-federal applicator certified in another state must apply for West Virginia certification in the normal manner.

Section 10. Reciprocity

10.1 Commercial Applicators - When a commercial applicator is certified under the state plan of another state and desires to operate as a commercial applicator in West Virginia, he shall make application to the commissioner and shall include, along with the proper fee and other details required by the ACT, a true copy of his credentials certifying him as an applicator of restricted use pesticides in another state. The commissioner then may, if he approves the credentials, issue a West Virginia certification to the applicator in the category(ies) for which he is certified in another state, without a written examination, provided that the state having certified the applicator will similarly certify holders of West Virginia certificates.

10.2 Private Applicators - When a private applicator is certified under the state plan of another state and owns, leases or manages land in West Virginia on which restricted use pesticides must be applied to produce agricultural crops, the commissioner will issue a West Virginia Private Applicator Certification on receipt of a properly completed application, proper fee and a true copy of the applicant's out-of-state certification.

Section 11. Standards for Licensing of Dealers of Restricted Use Pesticides

11.1 Determination of Competency - An applicant for license to sell restricted use pesticides must demonstrate a knowledge and understanding of safe and acceptable methods of handling, storage and distribution of restricted use pesticides as well as knowledge and understanding of the state pesticide laws. Such demonstration of

knowledge shall be determined on the basis of a written examination. Failure to correctly answer at least 70% of the questions asked shall be grounds for denial of certification and at least 30 days must pass before the dealer may apply for re-examination. No fee shall be required for re-examination.

11.2 General Standards for Dealers of Restricted Use Pesticides - All dealers licensed to sell restricted use pesticides shall demonstrate a practical knowledge of the types of pesticides he sells including but not limited to: labels and label comprehension; classification of pesticides and necessity for use consistent with the label; safety including: safe use and safe environment; symptoms of pesticide poisoning; type of pesticides and pesticide formulation; dilution procedures and application techniques.

Section 12. Records

12.1 Commercial Applicators and Certified Public Applicators - Commercial applicators including certified public applicators shall, for a period of three years from the date of application, keep records detailing the application of restricted use pesticides applied by them or under their supervision to include:

12.1.1 The pesticide used.

12.1.2 The formulation used and the quantity of that formulation used. In the case of applicators in the sub-category General Pest Control, the records for quantity used may be kept as a total quantity used per day by each applicator when less than 1 gallon of use dilution spray or one pound of dusts, powders or prepared rodenticide baits are used at any one location. When more than these amounts are used at one location, records for that location shall be kept.

12.1.3 The date and place of application.

12.1.4 The pest against which the pesticide was used.

12.1.5 The applicator's name.

12.2 Licensed Pesticide Application Business - Licensed pesticide application businesses shall, for a period of three years from the date of application, keep records detailing the application of pesticides, whether or not the pesticides are classified for restricted use, to include:

12.2.1 The pesticide used.

12.2.2 The formulation used and the quantity of that formulation used. In the case of applicators in the sub-category General Pest Control, the records for quantity used may be kept as the

total quantity used per day by each applicator when less than 1 gallon of use dilution spray or one pound of dusts, powders or prepared rodenticide baits are used at any one location. When more than these amounts are used at one location, records for that location shall be kept.

12.2.3 The date and place of application.

12.2.4 The pest against which the pesticide was used.

12.2.5 The applicator's name.

12.3 Dealers of Restricted Use Pesticides - Dealers of restricted use pesticides shall keep and maintain for a period of three years records on the sale or other disposition of restricted use pesticides to include the following:

12.3.1 Pesticides sold, or otherwise disposed of, including formulation. For example, Sevin 80% W.P.

12.3.2 Quantity. For example, 50 pounds.

12.3.3 Date of sale or disposition.

12.3.4 Name and address of purchaser or receiver, including the certified applicator's identification number.

Section 13. Financial Security Required of Licensed Pesticide Application Businesses

13.1 Amounts - The commissioner shall not issue a licensed pesticide application business license until the applicant has filed evidence of financial security with the commissioner, which may consist of a surety bond or liability insurance policy or certification thereof from an insurance company licensed to do business in West Virginia. Such financial security shall be in the amounts listed for each category of licensed pesticide application business.

The type of insurance coverage shall be in the form of Comprehensive General Liability with a Broad Form General Liability Supplement. If the insurance coverage specifically excludes liability arising from the purposeful use or application of pesticides, an additional insurance rider or surety bond must be secured in a minimum amount of \$25,000.00 to provide such financial security.

13.1.1 Agriculture Plant Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) combined single limit for bodily injury or death and property damage.

13.1.2 Animal Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) combined single limit for bodily injury or death and property damage.

13.1.3 Forest Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) combined single limit for bodily injury or death and property damage.

13.1.4 Ornamental and Turf Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) combined single limit for bodily injury or death and property damage.

13.1.5 Seed Treatment - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) combined single limit for bodily injury or death and property damage.

13.1.6 Aquatic Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) combined single limit for bodily injury or death and property damage.

13.1.7 Right-of-Way Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) combined single limit for bodily injury or death and property damage.

13.1.8 Industrial, Institutional, Structural and Health Related Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) combined single limit for bodily injury or death and property damage.

13.2 Aerial Applicators - Aerial Applicators in the above categories or sub-categories shall show evidence of financial security for public liability and chemical application in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury or death and One Hundred Thousand Dollars (\$100,000.00) for property damage.

13.3 Liability for Pesticide Use - Nothing in these regulations shall be construed in any way to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of the commissioner.

Section 14. Storing and Disposal of Pesticides and Pesticide Containers -

14.1 Prohibited Acts - No person shall dispose of or store (or receive for disposal or storage) any pesticide, pesticide container or pesticide container residue:

14.1.1 In a manner inconsistent with its label or labeling;

14.1.2 So as to cause or allow the open dumping of pesticides or pesticide containers;

14.1.3 So as to cause or allow open burning of pesticides or pesticide containers: except: the open burning by the user of small quantities of combustible containers (not to exceed 50 lbs.) containing pesticides other than those containing organic mercury, chlorates, lead, cadmium, or arsenic compounds, is acceptable when allowed by state or local regulations and when due regard is given to wind direction in relation to the protection of crops, animals and people from the pesticide vapors created through burning;

14.1.4 So as to cause or allow dumping of pesticides in any stream, river, pond, sewer or lake, except in conformance with permits issued by the West Virginia Department of Natural Resources or other state agency having jurisdiction regarding water pollution;

14.1.5 So as to violate any applicable state or federal pollution control standard.

14.2 Recommended Procedures - Recommended pesticide and pesticide container disposal procedures shall permit the disposal of containers of pesticides registered for use in the home and garden if securely wrapped in several layers of paper and disposed of singly during routine municipal solid waste disposal and disposal of pesticides and pesticide containers on farms where disposal by open-field burial of single containers is undertaken with due regard to the protection of surface and sub-surface waters.

14.2.1 Until such time as the commissioner along with the Pesticide Advisory Board, and any other person as the commissioner may consult, promulgate more specific rules and regulations covering the disposal and storage of pesticides and pesticide containers not provided in 14.1 or 14.2 of this section, the recommended procedures for the disposal and storage of pesticides and pesticide containers detailed in Regulations, promulgated by the Administrator, United States Environmental Protection Agency shall be the recommended procedures for West Virginia. The commissioner shall make copies of these procedures available to any person needing guidance for proper disposal or storage of pesticides or pesticide containers.

Section 15. Pesticide Advisory Board

15.1 Expenses of Members Not From State Governmental Departments - Pesticide Advisory Board members not from governmental departments shall submit expense accounts to the commissioner no later than the 8th day of the month following the month in which expenses were incurred on forms provided by the commissioner. Reimbursements made to members not from governmental departments shall be made for the actual cost of lodging, meals and transportation according to the regulations applicable to department employees.

Section 16. Exemptions

16.1 Experimental Research Exemption - The provisions of Section 5 (5.2) of these regulations relating to categorization of commercial applicators shall not apply to research personnel applying pesticides only to bona fide experimental plots.

Section 17. Restricted Use Pesticide Dealerships

17.1 Each Establishment To Be Licensed - Each establishment, store, warehouse or other place where restricted use pesticides are sold or offered for sale shall be considered to be a dealership and at least one person at each dealership shall be licensed as required by the Act.

17.2 Salesmen or Technical Sales Representatives - Salesmen or technical sales representatives for out-of-state pesticide dealers shall be subject to the provisions of Section 13 of the Act.

Section 18. Application Equipment

18.1 General Prohibitions - No person shall apply, dispense, or use any pesticide in or through any equipment or application apparatus unless such equipment or application apparatus is in sound mechanical condition and capable of satisfactory operation. All pesticide application equipment shall be properly equipped to dispense the proper amount of material; all pesticide mixing, storage, or holding tanks, whether on application equipment or not, shall be leak-proof; all spray distribution systems shall be leakproof and any pumps which such systems may have shall be capable of operating at sufficient pressure to assure a uniform and adequate rate of discharge; and all pesticide application equipment shall be equipped with whatever cut-off valves and discharge orifices may be necessary to enable the operator to pass over (or by) non-target areas without contaminating them.

Section 19. Implementation

19.1 Licensed Pesticide Application Business -

19.1.1 Effective July 1, 1981, all persons owning or managing

a pesticide application business which is engaged in the business of applying pesticides upon the lands of another (whether or not such person applies restricted use pesticides) and who hold Licensed Applicator licenses valid for 1981, shall make application to the commissioner for license and examination on a regular form supplied by the commissioner prior to December 21, 1981, accompanied by the required annual fee of Fifty Dollars (\$50.00), and the financial security required under Section 14 of the law and Section 13 of these regulations.

19.1.2 Effective July 1, 1981, any person not holding a Licensed Applicator license valid for 1981 and who desires to engage in the business of applying pesticides for hire shall make application to the commissioner on a regular form supplied by the commissioner for a Licensed Pesticide Application Business License. Such applicant, after successfully demonstrating the competency required under Section 6 of these regulations, shall be licensed as a Licensed Pesticide Application Business providing the proper fee has been paid and the other requirements of the Act and these regulations are satisfied.

19.2 Private Applicators and Other Applicators (Commercial or Certified Public Applicator) Not Engaged in the Business of Applying Pesticides Upon the Land of Another - Private applicators, certified public applicators and commercial applicators in all categories not engaged in the business of applying pesticides upon the lands of another shall make application for certificate and determination of competency to the commissioner on a regular form provided by the commissioner, accompanied by the required fee of One Dollar (\$1.00) prior to the date they desire to purchase or use restricted use pesticides, and shall maintain current certifications so long as they desire to use restricted use pesticides.

19.3 Dealers - All persons who are dealers in restricted use pesticides shall make application for license and examination to the commissioner on a regular form provided by the commissioner, accompanied by a required fee of Five Dollars (\$5.00) prior to the date they desire to engage in the business of dispensing restricted use pesticides, and shall maintain such license so long as they desire to deal in restricted use pesticides.

Section 20. Permits

20.1 Commissioner May Issue - The commissioner may issue a permit to a non-certified applicator to use a restricted use pesticide for a specific use and for a specific period of time providing the person desiring such permit completes an application on a form provided by the commissioner and pays One Dollar (\$1.00) fee and demonstrates competency

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in the use of that pesticide according to the label directions. Such demonstration of competency shall be by oral examination before the commissioner.

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Leg. Regs., 19-16B
SERIES XIIIa, APPENDIX I

APPENDIX 1

Section 4.4 The following pesticides are hereby declared to be restricted to use by applicators certified to use restricted use pesticides.

RESTRICTED USE PESTICIDE LIST

FILED

1986 JUN 13 PM 2:48

OFFICE OF AGRI. & FORESTRY
SECRETARY OF STATE

TRANSCRIPT OF
HEARING HELD MAY 22, 1986
ON
FINANCIAL SECURITY OF REQUIRED
LICENSED PESTICIDE APPLICATION BUSINESSES

This hearing was held at 1:30 p.m., on this date in the John T. Johnson Auditorium, Guthrie Agricultural Complex, Charleston, West Virginia 25312.

Attending were:

<u>Name/Representing</u>	<u>Address</u>
Mary K. Cliff C & C Pest Control	701 Westview Avenue Huntington, WV
Gladys Vance Jan Pest Control	Box 53 Davin, WV
David O. Quinn West Virginia University	408 Brooks Hall P. O. Box 6057 Morgantown, WV
Robert C. Hampton Orkin Exterminating	3031 Dixie Highway Edgewood, KY 41017
Cecil Taylor Bruce Terminix	1111 Quarrier Street Charleston, WV
Tandy Ratcliff SSI Industries, Inc.	P. O. Box 9276 Huntington, WV
JoAnn Kelly Dodson Brothers Exterminating	5611 MacCorkle Avenue So. Charleston, WV
Dexter Owsley House Doctor	5401 MacCorkle Avenue, S.E. Charleston, WV
Johnny Raschella Ace Exterminating	711 Berkeley Pike Belington, WV
Gus R. Douglass Agriculture Commissioner	
Dr. Charles C. Coffman Plant Pest Control Division (WVDA)	
Robert E. Frame Plant Pest Control Division (WVDA)	
Veronica Jenkins Plant Pest Control Division (WVDA)	
Jerri Eberbaugh Plant Pest Control Division (WVDA)	
Charlie West West Virginia Department of Agriculture	

COMMISSIONER DOUGLASS: At this time, I will call to order a public hearing relative to amendments to the West Virginia Pesticide Use and Application Act. Let the record indicate that the notice of this hearing was filed with the Secretary of State's Office on April 8, 1986, and that news releases of general circulation and announcements to the industry in West Virginia that might be affected was also placed in circulation at least thirty days prior to this hearing. Let the record indicate that this hearing does meet all the requirements of the State of West Virginia in reference to the holding of hearings by the Department of Agriculture or any Division of government of the State of West Virginia. We have circulated to you copies of these amendments here. I have requested a register of those that are desirous to speak, which I have before me. Also, I will introduce into the record any written comments that might have been sent to this Department at this time. Dr. Coffman, do you have any written comments?

DR. COFFMAN: We have not received any.

COMMISSIONER DOUGLASS: Let the record indicate that to this point we have not received any written documents relative to these proposed amendments. This is an official hearing, but at the same time I am not requiring that you be sworn. Any testimony that any may desire to make in reference to these amendments may be given. Those that desire to speak, are they on the record as desiring to speak? Any person that does desire to address this hearing in reference to the regulations may do so. My normal procedure is to ask members of the staff to go through the proposed amendments, read them, and we will hear any comments. We will take them section at a time and at that time if you desire to inquire, we will be more than happy to hear your comments in reference to them.

Amendments attached and marked Exhibit #1

If there is a person who has a written statement that they wish to make, I will welcome that statement at this time, prior to opening up the hearing from staff. Is there a statement to be filed at this time? If not, I will ask Dr. Charles Coffman to go to those areas wherein amendments are proposed within these regulations. Where changes are made there are strike throughs or they are underlined. Those are the only areas that we are amending in the regulations. The regulations remain the same on the first page and we go to the second page where the amendments start. Dr. Coffman do you have any opening comments, or your staff, before we do get underway?

DR. COFFMAN: I have a statement that Bob has prepared, Commissioner, as sort of a background, sort of an introduction, prior to reading the regulations.

COMMISSIONER DOUGLASS: Proceed with your introductory statement and then you may proceed with Section 13 of the regulations.

DR. COFFMAN: This is a statement made by the Plant Pest Control Division on the insurance regulations that are being presented today at this public hearing.

(Dr. Coffman then read the attached statement marked Exhibit No. 2.)

COMMISSIONER DOUGLASS: For the benefit of the visitors who have just arrived, we are going to take up the proposed regulations section by section and we will welcome your comments, pro or con. We will ask that you identify yourself before you speak. Put your hand up so that we can keep it orderly and I will give each of you an opportunity to speak on these regulations or proposed amendments. I might add that these regulations are in force and effect now as emergency regulations, and so really this will determine whether they stay in force and become permanent regulations.
Dr. Coffman.

DR. COFFMAN: Section 13 of the West Virginia Pesticide Use and Application Act - Financial Security Required of Licensed Pesticide Application Businesses, etc. (Dr. Coffman read Section 13 of said regulations, herein attached and marked Exhibit No. 1.)

COMMISSIONER DOUGLASS: Are there any questions or comments. If so, please state your name and proceed.

CECIL TAYLOR: My name is Cecil Taylor with Bruce Terminix. If I am not mistaken, my policy excludes the contamination except where it was accidental. I took this to mean that if we are applying insecticides and they are overly applied in some manner as to cause contamination, then it would be accidental, it wouldn't be on purpose. Can you give me some answers on this?

ROBERT E. FRAME: In checking with the insurance companies and dealing with the different ones, the pollution exclusions usually say that they will not cover unless it is a sudden and accidental loss, which means that if you were in a home spraying and a hose burst on a tank and there was a sudden and accidental loss of the chemical, they would cover you. But the purposeful application for the job that you are trying to do, to apply the pesticides to control termites or roaches or whatever, if a claim should arise from that, they do not necessarily have to cover you because the application of that chemical was not sudden or accidental.

COMMISSIONER DOUGLASS: I might further elaborate on that. The new changes in the law dealing with pesticides in Congress is addressing this clearly, with almost identical language to what he says.

MR. TAYLOR: If we were treating a house and the chemical got into a well, even though that well was 50 feet from the house, then that would not be considered accidental?

MR. FRAME: In that case it probably would be. However, if a person living in that house that you sprayed for fleas or whatever, became ill, then the company does have an out that they can back out of the coverage.

MR. TAYLOR: Even though you are using the chemicals legally, according to the labels?

MR. FRAME: Right.

MR. TAYLOR: In other words we don't have any coverage if they want to back out?

MR. FRAME: That's right, if they want to back out. That has been a thing that has occurred in the last two or three years, with all the concern about chemicals. It depends, really, on the insurance company. I have some letters from some companies that state that although there is a pollution and contamination exclusion within the policy, they regard that as being for a major catastrophe and they state in the letter that they would cover for the normal use and application of pesticides if the problem arises such as a person becoming ill, a cat dying, shrubbery being killed, or whatever. However, there are other companies that say that if there is any problem that arises from the use of pesticide, then that is a contamination problem and we don't cover it.

MR. TAYLOR: Then what are we going to do if we can't get insurance?

MR. FRAME: That was the reason that we chose the word purposeful or purposeful use and application of pesticides and tried to stay away from some of the more negative terms such as pollution and contamination. This insurance is to cover you if you apply pesticides in a home and a problem should arise. It would probably still go with the Department certificate that the insurance company is certifying that they know what they are covering for, because some agents don't. I might add that the Department certificate that we are requiring now, there was a case that was tried in the Kanawha County Circuit Court. Just recently a decision was rendered there and the company had an exclusion in the policy and they tried to back out of coverage and because of the certificate that we required (that was different from the standard accord form) that specified just what the insurance was for, Judge Hey recently ruled that the company did have to pay off, even though they had an exclusion saying that they did not have to. That protects you all.

COMMISSIONER DOUGLASS: Other questions? Do you understand what we are saying? This is the reason we are trying to change this law and make it a little more understandable to the industry and what we are aware of that you are faced with.

MR. TAYLOR: I'm not sure I understand.

COMMISSIONER DOUGLASS: Well, if you follow directions your insurance will cover you, basically, but if you don't, if you spray once and you don't think you put enough on and you spray it the second time, then you are not following label directions and you may then be liable.

MR. TAYLOR: Yea, but right now, the way I read my insurance policy, they could get out of it unless it was as we said a while ago.

COMMISSIONER DOUGLASS: Well, I think you will be surprised when you look and the anniversary date of your policy and what they come back at you with. Yes?

DEXTER OWSLEY: I'm Dexter Owsley, House Doctor Exterminating Company. We are talking about accidental pollution and contamination, but the rumor is in the insurance industry that this will not be available at all next year, then what?

COMMISSIONER DOUGLASS: Since this is in the law, and I can only work within the boundaries of the law with the regulations---of course the law states that if you don't have insurance coverage, then you cannot operate, unless the Legislature comes back and hassels with them as they are doing downtown right at the moment. Its just a general across the board situation.

MR. FRAME: What we are facing here, I think, and we have tried to address in this, is in the State Act itself, which was passed by the Legislature, which says that the Commissioner shall not issue a license, a Pesticide Application Business license as required in Section 8 of the Article, until the applicant has filed evidence of financial security with the Commissioner, which is a surety bond, or whatever, in an amount not less than twenty-five thousand dollars, protecting persons who may suffer legal damages as a result of the operations of the applicant or the applicant's employees, and that's got to include your everyday application of products if a claim arises. Now what we have tried to do is to address that. If this type of insurance should be wiped out, then, unless the law is changed the Commissioner has to require at least twenty-five thousand dollars. That's why we put in that if it is not available, there has to be an additional rider or surety bond, we now have the twenty-five thousand dollars to cover that. Now if those things are just not available, period, then the Legislature is going to have to come back to rewrite the law.

MR. OWSLEY: Where does that leave us? You know a claim for contamination or pollution is probably a good lucrative spot for them to sue us on.

COMMISSIONER DOUGLASS: Unless you can get the coverage. And we are telling you what you are facing. Basically I am not requiring that coverage. I am giving you a loophole.

MR. OWSLEY: I Understand that, too.

COMMISSIONER DOUGLASS: You had better be aware of what is in those policies and how they are being written. Yes, Mr. Taylor?

MR. TAYLOR: If I read this correctly, if we could not obtain the proper insurance then we could put up a twenty-five thousand dollar bond and operate. Is this correct?

COMMISSIONER DOUGLASS: Right.

MR. FRAME: If it comes to that. There has to be a mechanism created to do that, but that is certainly a possibility.

COMMISSIONER DOUGLASS. Use the term "alternative in dire circumstances".

MR. TAYLOR: Just as long as we have some way to stay in business.

COMMISSIONER DOUGLASS: Are there other questions?

MR. OWSLEY: There might be a problem getting a twenty-five thousand dollar security bond.

COMMISSIONER DOUGLASS: That's your court of last resort, I'm sorry.

MR. TAYLOR: But those insurance companies are the ones that write those.

COMMISSIONER DOUGLASS: I know then we are in another situation and I have no latitude on that.

MR. FRAME: There was one individual this spring that was having difficulty and I talked with he and his agent quite a bit and they were looking at that time, about setting up a cash bond to cover claims. Because of the fact that an insurance company did come along and pick him up, details of that arrangement were never worked out, but that would be a possibility.

COMMISSIONER DOUGLASS: Are there other questions? There seems to be none. Let the record indicate that I hear no objections to the amendments in this Section. Proceed.

DR. COFFMAN: (Dr. Coffman then read Section 13.1.1 of the attached Exhibit 1).

COMMISSIONER DOUGLASS: What we are doing here in this one applies to each of the others as we go through, so if you would like to address any of these through 13.1.8, feel free to do so, because they are the same.

JOHNNY RASCHELLA: I am Johnny Raschella, Ace Exterminator. I see that we had a little meeting here at the Department and there was something brought up that they were going to lower the limits to two-hundred fifty thousand dollars with a five-hundred thousand dollar aggregate. Was that not brought up, Bob?

BOB FRAME: That was discussed in trying to determine some level to set the insurance. In going back and talking with the insurance commissioner and agents, we were advised that three-hundred thousand dollars was about the bare minimum so we chose the three-hundred thousand dollars. These are the minimum amounts. If a person desires to have more than that, they can. In most insurance certificates that we see they are three-hundred thousand dollars each occurrence, one-million dollars aggregate or some combination thereof. This was at the advice of the insurance people that this probably was the bare minimum.

JOHNNY RASCHELLA: What I was getting at, and I just seen it in here, everybody knows that you need more than that to start with. My point in bringing it up is that it was discussed when the Association had a meeting with you all, and I didn't think I heard anything different on this. That's the reason I was bringing it up.

MR. FRAME: I think these would be the same ones that I passed around at the last meeting in March.

MR. RASCHELLA: I'll dig it out and be sure.

COMMISSIONER DOUGLASS: One further note here, and Bob, correct me if I am wrong, but one of the problems in writing this particular policy was that we struck the hundred-thousand dollar property damage clause.

MR. FRAME: Correct. The certificates that we get in most cases are combined single limits and in order to get the three-hundred thousand dollars each occurrence and the property damage, some people were, in essence, having to purchase two policies. We also had a lot of difficulty in when there were combined single limits that would include the property damage, getting the people to get enough insurance. This was a simplified way to make a combined single limit. Some people feel that this is a reduction coverage and in one sense of the word it is and in another sense it is an increase. In the past ten years, all of the claims that I am aware of have been in the area of property damage. So while this is a decrease in the overall amount of insurance required, it is actually increasing the insurance that we have seen the activity in. I think that it better covers the people of the state and the company.

COMMISSIONER DOUGLASS: Further questions? Comments? Now is your chance. Feel free to comment or ask questions. Are you in agreement or should there be amendments to the changes 1 through 8? Let the record indicate I hear no objection to these amendments that I propose. O.K. Proceed.

DR. COFFMAN: (Dr. Coffman read Section 13-2 of the West Virginia Pesticide Use and Application Act, which is attached hereto and marked Exhibit No. 1)

COMMISSIONER DOUGLASS: Questions? Comments on the aerial applicators?

JOHNNY RASCHELLA: I was just wondering why the aerial applicators have the same requirements as the pest control operators do when they stand a greater risk of contaminating, yet it is still the same amount of liability and property damage.

MR. FRAME: The only change we have made there is to decrease the property damage from the two-hundred thousand dollar level to the one-hundred thousand dollar level for the simple reason that that is all that is out there. There is nothing else available to them.

COMMISSIONER DOUGLASS: Do you understand that is the minimum amount

that companies will insure an aircraft. Of course, there is more danger of an aircraft falling than there is of your truck damaging something out here in the performance of your work activities.

MR. RASCHELLA: That was why I asked the question. There is more danger of an aircraft causing a bigger problem than PCO does and still they have the same minimum standards.

MR. FRAME: Their insurance in essence, is a little bit greater than yours but again that is all that is available to them. In fact we have some people that if you were to currently require the two-hundred thousand dollars, they would be out of business. It's just not there.

COMMISSIONER DOUGLASS: Other questions? Comments? Are there objections to this section in its form? Let the record indicate I hear none. Dr. Coffman, do you have further amendments.

DR. COFFMAN: No. Thirteen-three is the same.

COMMISSIONER DOUGLASS: Thirteen-three - Liability for Pesticide Use is the same, without change. And again, the only changes are those strike throughs or under-lines in the regulations. Are there any general comments at this time that anyone desires to make before I close this hearing? Let the record indicate that I hear none. A transcript of this hearing will be made by the Department and become a part of the record. If you are in favor of the amendments to these regulations, it is to your advantage to write a letter stating so. You should have letters of support in the record. If you do not agree there should also be written comments to that effect. The procedure is that after all the information is gathered, I will be making recommendations to the Legislative Rule Making Review Committee and then they make their recommendation to the Legislature, who in turn enact them into law.

If there are no further comments, and nothing further relative to this record, let the record indicate that at approximately 2:10 p.m., I have adjourned this hearing.

Gus R. Douglass
Agriculture Commissioner

EXHIBIT 1

Dept. of Agri.
Leg. Regs., 19-16B
SERIES XIIa, Sec. 13

Section 13: Financial Security Required of Licensed Pesticide Application Businesses

13.1 Amounts - The commissioner shall not issue a licensed pesticide application business license until the applicant has filed evidence of financial security with the commissioner, which may consist of a surety bene bond or liability insurance policy or certification thereof from an insurance company licensed to do business in West Virginia. Such financial security shall be ~~for the amount and kind~~ in the amounts listed for each category of licensed applicator as follows: pesticide application business.

The type of insurance coverage shall be in the form of Comprehensive General Liability with a Broad Form General Liability Supplement. If the insurance coverage specifically excludes liability arising from the purposeful use or application of pesticides, an additional insurance rider or surety bond must be secured in a minimum amount of \$25,000 to provide such financial security.

13.1.1 Agriculture Plant Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) ~~for bodily injury or death for each occurrence, and One Hundred Thousand Dollars (\$100,000.00) for property damage resulting from the use or misuse of pesticides.~~ combined single limit for bodily injury or death and property damage.

13.1.2 Animal Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) ~~for bodily injury or death for each occurrence, and One Hundred Thousand Dollars (\$100,000.00) for property damage resulting from the use or misuse of pesticides.~~ combined single limit for bodily injury or death and property damage.

13.1.3 Forest Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) ~~for bodily injury or death for each occurrence and One Hundred Thousand Dollars (\$100,000.00) for property damage resulting from the use or misuse of pesticides.~~ combined single limit for bodily injury or death and property damage.

13.1.4 Ornamental and Turf Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) ~~for bodily injury or death for each occurrence and One Hundred Thousand Dollars (\$100,000.00) for property damage resulting from the use or misuse of pesticides.~~ combined single limit for bodily injury or death and property damage.

13.1.5 Seed Treatment - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) ~~for bodily injury or death for each occurrence and One Hundred Thousand Dollars (\$100,000.00) for property damage resulting from the use or misuse of pesticides.~~ combined single limit for bodily injury or death and property damage.

13.1.6 Aquatic Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) ~~for bodily injury or death for each occurrence and One Hundred Thousand Dollars (\$100,000.00) for property damage resulting from the use or misuse of pesticides.~~ combined single limit for bodily injury or death and property damage.

13.1.7 Right-of Way Pest Control - An applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) ~~for bodily injury or death for each occurrence and One Hundred Thousand Dollars (\$100,000.00) for property damage resulting from the use or misuse of pesticides.~~ combined single limit for bodily injury or death and property damage.

13.1.8 Industrial, Institutional, Structural and Health Related Pest Control - an applicant for license in this category shall file evidence of financial security in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) ~~for bodily or death for each occurrence and One Hundred Thousand Dollars (\$100,000.00) for property damage resulting from the use or misuse of pesticides.~~ combined single limit for bodily injury or death and property damage.

13.2 Aerial Applicators - Aerial Applicators in ~~any of~~ the above categories or sub-categories shall show evidence of financial security for public liability and chemical application in the minimum amount of Three Hundred Thousand Dollars (\$300,000.00) ~~for bodily injury or death for each occurrence and Two Hundred Thousand Dollars (\$200,000.00)~~ One Hundred Thousand Dollars (\$100,000.00) for property damage. ~~resulting from the use or misuse of pesticides.~~

13.3 Liability for Pesticide Use - Nothing in these regulations shall be construed in any way to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of the commissioner.

EXHIBIT 2

PLANT PEST CONTROL DIVISION STATEMENT ON INSURANCE REGULATIONS PRESENTED AT PUBLIC HEARING - MAY 22, 1986

The 190 companies affected by the requirements for insurance to operate a licensed pesticide application business provide many services essential to the health, welfare and safety of the citizens of the state. The services performed which are often overlooked and taken for granted include:

- * Weed control, on highways and railways, to assure readable signs and safe transportation of people, goods and services;
- * Brush control on utility rights-of-way to provide uninterrupted power, fuel and communication;
- * The protection of homes and other structures from wood destroying insects;
- * Pest control services in hospitals, restaurants, warehouses, and public buildings to help maintain the public health by assuring a pest free environment for leisure, work and food storage and preparation; and
- * The protection of agricultural crops and forests, thereby providing food and raw building materials necessary to the economy and well being of the state.

The problems concerning types of insurance coverage and exclusions in policies first appeared about 1980. Advice was sought from the Insurance Commission. At that time, we were advised to prepare an insurance certificate specific to our regulatory requirements. A representative of the Insurance Commission designed a certificate for our use. The certificate specific to the requirements was adequate until the beginning of the liability insurance crisis that most professions are experiencing. First, insurance premiums increased drastically. Then, insurance for persons using pesticides became increasingly difficult to find and coverages were being reduced. Finally, beginning this year, some companies reported that they would be unable to meet our requirements at renewal due to increased stipulations in policies regarding amounts and pollution coverages.

Representatives of the Department of Agriculture met with members of the Insurance Commission, representatives of various insurance companies and industry groups. The regulations for which we are soliciting comments appear to us to be adequate to provide protection for the people of the state, protection for the regulated industry, comply with the types of insurance available today, comply with the statutory requirements of the West Virginia Pesticide Use and Application Act, and, at the same time, assure the continuance of the vital services of the pesticide application industries.



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON
25305

Gus R. Douglass
Commissioner

LEGISLATIVE UPDATE TO
LICENSED PESTICIDE APPLICATION BUSINESSES

The West Virginia Legislature passed House Bill 1685 on March 8, 1986, to become effective 90 days after passage. The bill was signed into law by Governor Moore on March 26, 1986. The bill provided amendments to the West Virginia Pesticide Use and Application Act in the following areas.

- 1) Provides that municipalities or counties cannot enact laws or ordinances regarding the regulation of pesticide use or application (19-16B-2).
- 2) Provides for out-of-state firms to file with the Secretary of State rather than the State Auditor (19-16B-8-6).
- 3) Requires the state tax number to be placed on the business application (19-16B-8-8).
- 4) Provides that a license, permit or certification may be renewed by the first day of April without reexamination, provided that no person holding an expired license, permit or certification shall engage in any activity for which the license, permit or certification is required until such license, permit or certification has been renewed (19-16B-12).
- 5) Prohibits advertising as proof of professionalism in securing business that the licensee is certified or licensed by the Department of Agriculture or the Commissioner of Agriculture (19-16B-14-16).
- 6) Increases the level of civil penalty that may be assessed from \$200 to \$500 (19-16B-22-C).
- 7) Provides authority for the Commissioner to promulgate and adopt regulations which permit consent agreements or negotiated settlements for civil penalties assessed as a result of violations of the Act (19-16B-22-D).

These changes become effective on June 6, 1986. Many companies renewing telephone book ads in 1986 will need to make changes in their advertising to comply with amendment #5. Persons soliciting business and distributing business cards or other literature after June 6, bearing the Department of Agriculture's or Commissioner of Agriculture's name, will be in violation and subject to the penalties of the Act.

Liability insurance has been of great concern to many applicators. In an effort to make insurance coverage more available to applicators, provide protection for the applicator and the public at large and comply with the statutory restraints

of the Pesticide Use and Application Act, the insurance requirements are being changed. The proposed new requirements are as follows.

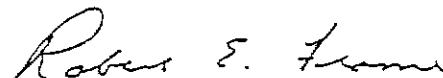
A Licensed Pesticide Application Business must show financial responsibility in the form of a Comprehensive General Liability Insurance Policy with a Broad Form General Liability supplement in a minimum amount of \$300,000 combined single limit for bodily injury or death and property damage. If the policy specifically excludes liability for the purposeful use of pesticides, an insurance rider or surety bond in a minimum amount of \$25,000 shall be secured to provide such coverage.

This level of insurance is to be secured for all types of Licensed Pesticide Application Businesses except aerial applicators. The proposed new limits for aerial applicators are public and chemical liability in a minimum amount of \$300,000 for bodily injury or death and \$100,000 for property damage.

These amounts and types of insurance were established after consultation with many insurance consultants and various industry companies. I suggest you consult your individual agents as to their effect on your particular business. A public hearing is scheduled for May 22, 1986 to hear any comments, good or bad, on these proposed regulations. A copy of the news release regarding the hearing is enclosed.

If you have any questions, please call me at (304) 348-2212.

Sincerely,



Robert E. Frame, Program Leader
Pesticide Use and Application
Plant Pest Control Division

REF/ss

Enclosure

Clipping Division
West Virginia Press
Services, Inc.
1033 Quarrier St. Suite 203
Charleston, WV 25301

APR 25 1986

The Oceana Sun
Oceana, WV

Circulation: 11,100

Public Hearing

Agriculture Commissioner Gus R. Douglass today announced that he will conduct a public hearing at 1:30 p.m., Thursday, May 22, 1986, in the John T. Johnson Auditorium, Building 3, Guthrie Agricultural Complex, Charleston, West Virginia 25312, to discuss proposed changes of the regulations dealing with the West Virginia Pesticides Use and Application Act in Section 13.

Douglass says Section 13 deals with the liability insurance or other proof of financial responsibility as a requirement for being licensed to apply pesticides and is needed in order to reflect the current trends of insurance availability.

Persons wishing to obtain copies of the proposed changes or further information on the hearing location may do so by calling (304) 348-2212. Written comments should be mailed to the Plant Pest Control Division, West Virginia Department of Agriculture, Capitol Building, Charleston, WV 25305. Persons making oral presentations at the hearing are requested to also submit written comments at that time in order to facilitate their review. Only regulations dealing with Section 13 of the West Virginia Pesticide Use and Application Act will be on the agenda.

West Virginia
Press Services, Inc
1033 Quarrier St.
Suite 203
Charleston, WV

MAY 1 1986

JEFFERSON ADVOCATE
CHARLES TOWN, WV

Hearing Set On Pesticide Rules

Agriculture Commissioner Gus R. Douglass has announced that he will conduct a public hearing at 1:30 p.m., Thursday, May 22, in the John T. Johnson Auditorium, Building 3, Guthrie Agricultural Complex, Charleston, WV 25312, to discuss proposed changes of the regulations dealing with the West Virginia Pesticides Use and Application Act in Section 13.

Douglass says Section 13 deals with the liability insurance or other proof of financial responsibility as a requirement for being licensed to apply pesticides and is needed in order to reflect the current trends of insurance availability.

Persons wishing to obtain copies of the proposed changes or further information on the hearing location may do so by calling 304-348-2212. Written comments should be mailed to the Plant Pest Control Division, West Virginia Department of Agriculture, Capitol Building, Charleston, WV 25305. Persons making oral presentations at the hearing are requested to also submit written comments at that time in order to facilitate their review. Only regulations dealing with Section 13 of the West Virginia Pesticide Use and Application Act will be on the agenda.

DIBBON

West Virginia
Press Services, Inc.
1033 Quarrier St.
Suite 203
Charleston, WV

MAY 3 1986

EVENING JOURNAL
MARTINSBURG, WV

Pesticide Hearing Planned

Agriculture Commissioner Gus R. Douglass will conduct a public hearing at 1:30 p.m., May 22 in the John T. Johnson Auditorium, Building 3, Guthrie Agricultural Complex, Charleston, to discuss proposed changes of the regulations dealing with the West Virginia Pesticides Use and Application Act in Section 13.

The section deals with the liability insurance or other proof of financial responsibility as a requirement for being licensed to apply pesticides and is needed in order to reflect the current trends of insurance availability, Douglass said.

Persons wishing to obtain co-

pies of the proposed changes or further information on the hearing location may do so by calling 348-2212. Written comments should be mailed to the Plant Pest Control Division, West Virginia Department of Agriculture, Capitol Building, Charleston, W.Va. 25305.

Persons making oral presentations at the hearing also are requested to submit written comments at that time in order to facilitate their review. Only regulations dealing with Section 13 of the West Virginia Pesticide Use and Application Act will be on the agenda.

Clipping Division
West Virginia Press
Services, Inc.
1033 Quarrier St. Suite 203
Charleston, WV 25301

MAY 1 1986
Putnam Democrat
Winfield, WV
Circulation: 2,000

Pesticide Regulations

Agriculture Commissioner Gus R. Douglass today (Apr. 9) announced that he will conduct a public hearing at 1:30 p.m. on Thursday, May 22, 1986, in the John T. Johnson Auditorium, Building 3, Guthrie Agricultural Complex, Charleston, West Virginia 25312, to discuss proposed changes in the regulations dealing with the West Virginia Pesticides Use and Application Act in Section 13.

Douglass says Section 13 deals with the liability insurance or other proof of financial responsibility as a requirement for being licensed to apply pesticides and is needed in order to reflect the current trends of insurance availability.

Persons wishing to obtain copies of the proposed changes or further information on the hearing location may do so by calling (304) 348-2212. Written comments should be mailed to the Plant Pest Control Division, West Virginia Department of Agriculture, Capitol Building, Charleston, WV 25305. Persons making oral presentations at the hearing are requested to also submit written comments at that time in order to facilitate their review. Only regulations dealing with Section 13 of the West Virginia Pesticide Use and Application Act will be on the agenda.

Clipping Division
West Virginia Press
Services, Inc.
1033 Quarrier St. Suite 203
Charleston, WV 25301

APR 12 1966

Telegram
Clarksburg, WV
Circulation: 18,621

Hearing Scheduled On Pesticide Use

West Virginia Agriculture Commissioner ~~_____~~ Douglass announced that he will conduct a public hearing at 1:30 p.m. Thursday, May 22, in the John T. Johnson Auditorium, Building 3, Guthrie Agricultural Complex, Charleston, to discuss proposed changes in regulations dealing with Section 13 of the West Virginia Pesticides Use and Application Act.

Douglass says Section 13 deals with the liability insurance or other proof of financial responsibility as a requirement for being licensed to apply pesticides and is needed in order to reflect the current trends of insurance availability.

Persons wishing to obtain copies of the proposed changes or further information on the hearing location may do so by calling the agriculture office.

Only regulations dealing with Section 13 will be on the agenda.

Clipping Division
West Virginia Press
Services, Inc.

1033 Quarrier St. Suite 203
Charleston, WV 25301

APR 16 1966

Lincoln Journal
Hamlin, WV

Pesticide topic of hearing

Agriculture Commissioner Gus R. Douglass recently announced he will conduct a public hearing at 1:30 p.m., Thursday, May 22, in the John T. Johnson Auditorium, Building 3, Guthrie Agricultural Complex, Charleston, to discuss proposed changes of the regulations dealing with the West Virginia Pesticides Use and Application Act in Section 13.

Douglass said Section 13 deals with the liability insurance or other proof of financial responsibility as a requirement for being licensed to apply pesticides and is needed in order to reflect the current trends of insurance availability.

Persons who wish to obtain copies of the proposed changes or further information on the hearing location may do so by calling (304) 348-2212.

West Virginia
Press Services, Inc.
1033 Quarrier St.
Suite 203
Charleston, WV

MAY 4 1986
DOMINION POST
MORGANTOWN, WV

Pesticide hearing May 22

A public hearing will be conducted at 1:30 p.m. Thursday, May 22 in Charleston on regulations dealing with West Virginia pesticide use and application in Section 13.

The hearing, conducted by the state Department of Agriculture, will be in the John T. Johnson Auditorium, Building 3, Guthrie Agricultural Complex, in Charleston.

Copies of the proposed changes can be obtained by calling 1-804-348-2212. Written comments should be sent to: Plant Pest Control Division, W.Va. Dept. of Agriculture, Capitol Building, Charleston, W.Va. 25305.

Clipping Division
West Virginia Press
Services, Inc.

1033 Quarrier St. Suite 203
Charleston, WV 25301

APR 20 1986

Gazette-Mail
Charleston, WV

Circulation: 107,903

of hawksterism some people con- nery, Roosevelt

Public hearing on pesticides May 22

Agriculture Commissioner Gus Douglass announced last week that a public hearing on use of pesticides will be held at 1:30 p.m. May 22 at Guthrie Agriculture Complex.

The hearing will be to discuss proposed changes in regulations dealing with use and application of pesticides in the state.

Persons wishing to obtain copies of the proposed changes or further information on the hearing location may call 348-2212. Writ-

ten comments should be mailed to the Plant Pest Control Division, West Virginia Department of Agriculture, Capitol Building, Charleston, W.Va. 25305.

Persons making oral presentations at the hearing are asked to submit written comments at that time in order to facilitate their review.

Only regulations dealing with Section 13 of the West Virginia Pesticide Use and Application Act will be on the agenda.

West Virginia
Press Services, Inc
1033 Quarrier St.
Suite 203
Charleston, WV

APR 16 1986

Nicholas Citizen News
Summersville, WV

Pesticide Regulations Hearing Set

Agriculture Commissioner Gus R. Douglass today announced that he will conduct a public hearing at 1:30 p.m., Thursday, May 22, 1986 in the John T. Johnson Auditorium, Building 3, Guthrie Agricultural Complex, Charleston, West Virginia 25312, to discuss proposed changes of the regulations dealing with the West Virginia Pesticides Use and Application Act in Section 13.

Douglass says Section 13 deals with the liability insurance or other proof of financial responsibility as a requirement for being licensed to apply pesticides and is needed in order to reflect the current trends of insurance availability.

Persons wishing to obtain copies of the proposed changes or further information on the hearing location may do so by calling (304) 348-2212. Written comments should be mailed to the Plant Pest Control Division, West Virginia Department of Agriculture, Capitol Building, Charleston, WV 25305.

A NEWS CLIP FROM
WEST VIRGINIA
PRESS SERVICES, INC.
LEVEL B, HOYER BLDG.
CHARLESTON, WV

APR 23 1986
EXAMINER
MOOREFIELD, WV

Pesticide Use And Application Act Hearing Scheduled

Agriculture Commissioner Gus R. Douglass today announced that he will conduct a public hearing at 1:30 p.m., Thursday, May 22, 1986, in the John T. Johnson Auditorium Building 3, Guthrie Agricultural Complex, Charleston, West Virginia 25312, to discuss proposed changes of the regulations dealing with the West Virginia Pesticides Use and Application Act in Section 13. Douglass says Section 13 deals with the liability insurance or other proof of financial responsibility as a requirement for being licensed to apply pesticides.

Persons wishing to obtain copies of the proposed changes or further information on the hearing location may do so by calling (304)348-2212. Written comments should be mailed in the Plant Pest Control Division, West Virginia Department of Agriculture, Capitol Building, Charleston, WV 25305. Persons making oral presentations at that time in order to facilitate review. Only regulations dealing with Section 13 of West Virginia Pesticide Use and Application Act will be on the agenda.

Clipping Division
West Virginia Press
Services, Inc.
1033 Quarrier St. Suite 203
Charleston, WV 25301

APR 24 1966
Calhoun Chronicle/News
Grantville, WV

73/

HEARING SET ON PESTICIDE REGULATIONS

A public hearing to discuss pesticides and is needed in proposed changes of the regula- order to reflect the current tions dealing with the West Vir- trends of insurance availability: ginia Pesticides Use and Appli- Persons wishing to obtain cation Act in Section 13 will be copies of the proposed changes held on Thursday, May 22, in or further information on the the John T. Johnson Auditor- hearing location may do so by rum, Building 3, Guthrie Agri- calling (304) 348-2212. Written rural Complex, Charleston. comments should be mailed to Agriculture Commissioner the Plant Pest Control Division, Gus R. Douglass says Section West Virginia Department of 13 deals with the liability insur- Agriculture, Capitol Building, ance or other proof of financial Charleston, WV 25305. Persons responsibility as a requirement making oral presentations at the for being licensed to apply hearing are requested to also submit written comments at that time in order to facilitate their review. Only regulations dealing with Section 13 of the West Virginia Pesticide Use and Application Act will be on the agenda.

Clipping Division
West Virginia Press

Servi Inc.

1033 Quar site 203
Charle 5301

MAY 18 1986

Fayette Tribune

Oak Hill, WV

Pesticide meet set by Douglass

Agriculture Commissioner Gus R. Douglass has announced that he will conduct a public hearing at 1:30 p.m. Thursday, May 22, in the John T. Johnson Auditorium, Building 3, Guthrie Agricultural Complex, Charleston, to discuss proposed changes of the regulations dealing with the West Virginia Pesticides Use and Application Act in Section 13.



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON
25305

FILED

1966 JUN 13 PM 2:48

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Gus R. Douglass
Commissioner

RULE TITLE: West Virginia Pesticide Use & Application Act
SERIES XIIa

RULE TYPE: Legislative.

No comments were received either at the hearing held on May 22, 1966, or by mail, before or after the hearing, except one, which copy is attached.

There were no amendments made to the proposed rule as a result of comments or other information received.

Gus R. Douglass
Agriculture Commissioner



PEST CONTROL
World's Largest

June 5, 1986

Gus R. Douglass, Commissioner
Department of Agriculture
STATE OF WEST VIRGINIA
Charleston, WV 25305

Dear Commissioner:

We support the changes of the regulations dealing with liability insurance or other proof of financial responsibility as proposed at the public hearing held on May 22, 1986.

The regulation changes referred to will, in our opinion, serve to better protect the consumer and the Pest Control Operator as well.

For this reason, we gladly endorse these changes to become a permanent part of the West Virginia Pesticides Use and Application Act.

Sincerely,

A handwritten signature in cursive script that reads "Bob".

Robert C. Hampton
Region Safety &
Training Director

RCH:td

SUBMITTED TO THE

LEGISLATIVE RULE MAKING REVIEW COMMITTEE

AS REQUIRED
