

TITLE 61  
LEGISLATIVE RULES  
DEPARTMENT OF AGRICULTURE

SERIES 12C  
WEST VIRGINIA PESTICIDE USE AND APPLICATION ACT  
OF 1975 - TERMITE REGULATIONS

**§61-12C-1. General.**

1.1. Scope. -- These legislative regulations establish the minimum requirements for structural pest control work on existing structures and on new constructions.

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

1.3. Filing Date. -- May 9, 1977

1.4. Effective Date. -- July 11, 1977

**§61-12C-2. Definitions.**

For the purpose of these supplemental regulations, the definitions shall be the same as those appearing in the West Virginia Pesticide Use and Application Act (section three, article sixteen-b, chapter nineteen of the West Virginia Code) and in the regulations, Series 12A, Section 3, with the following additions:

2.1. "Agreement" as used in these regulations means any written or verbal contract, accepted proposal, work order, guarantee, warranty or combination of these.

2.2. "Basement" as used in these regulations means the floor below the principle floor and may be wholly or partially below grade and may be earthen or covered.

2.3. "Crawl Space" means an area under a structure between the work portion above and the soil below, which cannot be considered as a floor.

2.4. "Existing Structure" means any building or part thereof, whether vacant or occupied, in all stages of construction.

2.5. "Footer" or "Footing" means the base or lower course upon which a foundation, pillar, pier, chimney

or other structure rests and may be below the surface of the ground or on the ground.

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

2.7. "Outside Treatment" as used in these regulations means the application of pesticides for termite control in the soil adjacent to the foundation, including porches, entry platforms, breezeways, etc., attached to the structure and underground as far as the footer.

2.8. "New Construction" as used in these regulations means any building or part thereof which is under construction and has not yet been occupied.

2.9. "Rodding" and "Injection" means the insertion of pesticide into the soil by means of a pipe or hollow rod through which a pesticide is forced under pressure or when used in conjunction with a shallow trench. Rodding may be the creation of holes made with a bar or rod in the soil.

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

2.11. "Termite Shelter Tube" means the mud tube constructed upon walls, pipes or other surfaces, or freestanding from the ground to the wood above, by subterranean termites.

2.12. "Trenching" as used in these regulations

means the removal of the soil in contact with the foundation, pillar, pier, chimney, etc.

2.13. "Unit Masonry Foundation" as used in these regulations means foundation construction using concrete, cinder or other blocks with voids, hollow tile blocks, bricks with space between tiers, etc.

2.14. "Use Dilution" as used in these regulations means the concentration of a mixed pesticide prepared for application to control or abate pests according to its registered label.

**§61-12C-3. Minimum requirements for termite control on structures in West Virginia.**

3.1. Pesticides.

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

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

3.1.3. Special care must be exercised, when making application of pesticides to control termites, to avoid contamination of water sources.

**§61-12C-4. Minimum standards for termite control on existing structures in West Virginia.**

4.1. Licensed pesticide application businesses engaged in termite control on existing structures shall, as a minimum measure for termite treatment, make pesticide applications according to the following procedures:

4.1.1. Structures with basements - outside treatment.

4.1.1.1. Poured concrete foundations. -- For solid concrete foundations, the soil must be treated to a depth of at least one foot below grade completely around the structure by rodding and/or trenching. The rate of application must be according to the directions on the registered label for the pesticide being used. When a poured concrete foundation is

cracked, the treatment used at the site of the crack and for at least 4 feet on either side of the crack shall be the same as that required for unit masonry foundations, which follows.

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

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

4.1.1.4. Attached porches, entrance platforms, utility entrances, patios, driveways and similar structures were a solid slab abutting the foundation exists at ground level shall be treated by drilling the slab at least every 18 inches and injecting the pesticide at the rate provided on the registered label into the soil beneath. When the slab is above grade and filled below, the fill shall be similarly treated. When a crawl space exists under an attached structure, the soil adjacent to the foundation shall be treated as in paragraph 4.1.1.2 above. Piers, pillars, etc., shall be treated as masonry foundations and any voids in unit masonry piers shall be treated as in paragraph 4.1.1.2 above.

4.1.2. Structures with basements - inside treatment.

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

4.1.2.2. Voids in unit masonry foundation walls in the area of filled porches, entrances and other similar areas may have to be drilled and treated from

the inside when outside treatment of the voids is impossible due to the attached structure.

4.1.3. Slab-on-ground construction - outside treatment.

4.1.3.1. A treatment shall be made along the outside of the foundation walls and the outside walls of the attached porches, entry ways, etc. Trench or rod to the top of the footer but no deeper than 30 inches. Pesticide treatments shall be made in a manner as prescribed for structures with basements. (See paragraph 4.1.1) Voids in unit masonry foundation walls should be treated as in structures with basements. (See paragraph 4.1.1)

4.1.4. Slab-on-ground construction - inside treatment.

4.1.4.1. The soil under the slab adjacent to the foundation shall be treated with a pesticide at the rate of application provided for on the registered label of the pesticide being used. In some instances this may be done by drilling completely through the foundation wall from the outside and in other instances the slab will need to be drilled from the inside. The soil under porches or entry floors, whether filled or with a crawl space, shall be treated as structures with basements as in paragraph 4.1.1 above. The soil under patios, driveways, walks and other places where they abut the foundation shall be treated as structures with basements as in 4.1.1 above. The soil under expansion joints, cracks in the slab and other openings in the slab shall be treated by drilling and injection of the toxic chemical at the rate prescribed on the registered label of the pesticide being used. Care must be exercised to avoid damage to underground utilities. Building plans should be consulted prior to drilling if possible.

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

4.1.5. Crawl space construction - outside treatment.

4.1.5.1. Treatment around the perimeter of crawl space construction structures shall be identical to that prescribed for structures with basements in paragraph 4.1.1.1 above.

4.1.6. Crawl space construction - inside treatment.

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

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

4.1.7. Porches or entrance platforms. -- Treatment around piers, foundations or pillars shall be done in the same manner as treatments under the structure, or if these are above grade and filled, treat as in structures with basements as in paragraph 4.1.1.4 above.

4.2. The procedures detailed in the previous Sections 4.1.1 and 4.1.2, structures with basements; 4.1.3 and 4.1.4, slab-on-ground construction; and 4.1.5 and 4.1.6, crawl space construction shall be the minimum treatment procedures for termite control in West Virginia when a guarantee or warranty is issued indicating implying that complete termite control has been performed. The treatments made by any procedure not meeting these requirements shall be termed "Partial Treatments" in any written or verbal agreement whether or not a guarantee of termite control is issued.

**§61-12C-5. Termite control for new construction (pretreat) in West Virginia.**

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

5.2. Any pretreatment for termite control that does not meet these minimum requirements shall be referred to as "Partial Pretreatment" in any written

or verbal agreement whether or not a guarantee of termite control is issued.

**§61-12C-6. Exceptions.**

6.1. When a licensed pesticide application business in the category of structural pest control is doing termite control or pretreatment to control termites according to specifications set forth in a bid proposal which do not meet these minimum requirements, he shall not be in violation of these regulations providing that the specifications under which he is working are available to the Commissioner and that the

application does not conflict with the registered label of the pesticide being used for termite control.

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

# MEMORANDUM

William H. Gillespie

Administrative Assistant



*M. Harrington:*

*This new release will complete your files. It is a duplicate of the one mailed on March 17. Our information staff says it was mailed at the time it was sent to the newspapers.*

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

*W. H. Gillespie*

THIS DATE 5/9/77

West Virginia Department Of Agriculture

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA



THIS DATE 5/9/77

GUS R. DOUGLASS  
COMMISSIONER

STATE OF WEST VIRGINIA  
DEPARTMENT OF AGRICULTURE  
CHARLESTON 25305

WILLIAM H. GILLESPIE  
ADMINISTRATIVE ASSISTANT

May 4, 1977

Mr. Earl Vickers, Director  
Legislative Services  
East Wing State Capitol  
Charleston, WV 25305

Dear Mr. Vickers:

I am enclosing 17 copies of a supplement to the rules and regulations promulgated effective January 1, 1976, to implement the West Virginia Pesticide Use and Application Act of 1975. This supplement establishes minimum requirements for structural pest control treatments. Would you please acknowledge their receipt so our files will be complete and then steer them to the Legislative rule-making review committee?

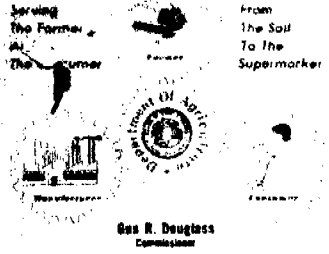
A public hearing was held on April 18, 1977, and no adverse comments were received. It was, in the absence of a state register, advertised through news releases to all state papers, the Market Bulletin and by letters to the officers of the West Virginia Pest Control Association on March 7, 1977.

We are also filing the regulations with the Secretary of State utilizing the form designated by that official.

Sincerely,

William H. Gillespie  
Administrative Assistant

WHG/rkd  
CC - Gus R. Douglass  
A. E. Cole  
William Harrington



**W  
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A**

# NEWS RELEASE

MAR 21 1977

**WEST VIRGINIA DEPARTMENT OF AGRICULTURE**

Information Division  
Charleston, WV 25305  
Phone: 348-3708

For Immediate Release

March 17, 1977

## **Agriculture Public Hearings**

CHARLESTON, W.VA.--Public hearings to consider regulations that will be involved in implementing two laws to be administered by the West Virginia Department of Agriculture will be held on April 18, 1977, at 1:30 p.m. The hearings will be held in the John T. Johnson Conference Room in the basement of the East Wing of the Capitol Building.

The regulations to be considered are required to implement the West Virginia Noxious Weed Act of 1976, which declares certain plant species to be noxious weeds, and sections of the West Virginia Pesticide Use and Application Act of 1975, that prescribe minimum standards for structural pest (termite) control in West Virginia.

Any interested person is invited to attend these hearings or may submit written comments to Gus R. Douglass, Agriculture Commissioner, West Virginia Department of Agriculture, Capitol Building, Charleston, WV 25305, prior to the date of the hearings.

-#-

**FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA**

THIS DATE 5/9/77



STATE OF WEST VIRGINIA  
 OFFICE OF THE SECRETARY OF STATE  
 CHARLESTON 25305

A. JAMES MANCHIN  
 SECRETARY OF STATE

STATE REGISTER FILING

I, Gus R. Douglass, Commissioner,  
 Title or Position

W. Va. Department of Agriculture, hereby submit to record in  
 Department or Division

the State Register on 8 1/2 x 11" paper two (2) copies of

- (X) proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- ( ) proposed rules and regulations superseding rules and regulations already on file;
- ( ) notice of hearing;
- ( ) findings and determinations;
- ( ) rules and regulations; or
- ( ) other - specify (

**FILED IN THE OFFICE OF  
 SECRETARY OF STATE OF  
 WEST VIRGINIA**

This filing pertains to

Chapter 19  
 Article 16- B  
 Series 12-a  
 Section 22-28  
 Page No. \_\_\_\_\_

**THIS DATE 5/9/77**

- (X) proposed rules and regulations are required to go to Legislative Rule Making Committee; Have been sent.
- ( ) proposed rules and regulations are excluded from Legislative Rule Making Committee;

May 9, 1977  
 Date Submitted

W. N. Gillespie  
 Signature of Person Authorizing  
 this Filing

THE WEST VIRGINIA PESTICIDE USE AND  
APPLICATION ACT OF 1975

FILED IN THE OFFICE OF  
THE SECRETARY OF STATE OF  
WEST VIRGINIA

REGULATIONS

SECTION 22 - GENERAL

THIS DATE 5/9/77

22.01 Scope

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

22.02 Authority

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

22.03 Effective Date

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

22.04 Filing Date

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

22.05 Certification

These regulations are certified authentic by the Secretary of State.

SECTION 23 - DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 24.01 Pesticides

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

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

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

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

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

### A. STRUCTURES WITH BASEMENTS

#### 1. Outside Treatment

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

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

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

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

#### 2. Inside Treatment

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

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

## B. SLAB-ON-GROUND CONSTRUCTION

### 1. Outside Treatment

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

### 2. Inside Treatment

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

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

## C. CRAWL SPACE CONSTRUCTION

### 1. Outside Treatment

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

### 2. Inside Treatment

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

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

### 3. Porches or Entrance Platforms

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

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

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

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

### 26.01

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

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

## SECTION 27 - EXCEPTIONS

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

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

## SECTION 28 - EFFECTIVE DATE

### 24.01

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



GUS R. DOUGLASS  
COMMISSIONER

STATE OF WEST VIRGINIA  
DEPARTMENT OF AGRICULTURE  
CHARLESTON 25305

WILLIAM H. GILLESPIE  
ADMINISTRATIVE ASSISTANT

May 10, 1977

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 5/9/77

Mr. William Harrington  
Rules & Regulations Division  
Secretary of States Office  
State Capitol Building - West Wing  
Charleston, WV 25305

Dear Mr. Harrington:

I am enclosing two copies of the regulations promulgated by Agriculture Commissioner Gus R. Douglass to supplement those in effect for the West Virginia Pesticide Use and Application Act (Series 12-a) as of January 1, 1976. This supplement establishes minimum requirements for structural pest control procedures.

A public hearing, after due notice, was held on April 18, 1977, and no adverse comments were received.

They were submitted to the Legislative Rule Making Committee on May 9, 1977.

Would you please acknowledge the receipt of this supplement so our files will be complete.

Sincerely,

A handwritten signature in cursive script that reads "W. H. Gillespie".

William H. Gillespie  
Administrative Assistant

WHG/rkd

cc - Gus R. Douglass  
A. E. Cole  
Earl Vickers

Serving  
The Farmer  
And  
The Consumer

From  
The Soil  
To The  
Supermarket



Gus R. Douglass  
Commissioner

**W  
V  
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A**

# NEWS RELEASE

MAR 21 1977

WEST VIRGINIA DEPARTMENT OF AGRICULTURE

Information Division

Charleston, WV 25305

Phone: 348-3708

For Immediate Release

March 17, 1977

## Agriculture Public Hearings

CHARLESTON, W.VA.--Public hearings to consider regulations that will be involved in implementing two laws to be administered by the West Virginia Department of Agriculture will be held on April 18, 1977, at 1:30 p.m. The hearings will be held in the John T. Johnson Conference Room in the basement of the East Wing of the Capitol Building.

The regulations to be considered are required to implement the West Virginia Noxious Weed Act of 1976, which declares certain plant species to be noxious weeds, and sections of the West Virginia Pesticide Use and Application Act of 1975, that prescribe minimum standards for structural pest (termite) control in West Virginia.

Any interested person is invited to attend these hearings or may submit written comments to Gus R. Douglass, Agriculture Commissioner, West Virginia Department of Agriculture, Capitol Building, Charleston, WV 25305, prior to the date of the hearings.

-#-

FILE IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 5/16/77  
w/d/d



FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 5/10/77  
4411

GUS R. DOUGLASS  
COMMISSIONER

STATE OF WEST VIRGINIA  
DEPARTMENT OF AGRICULTURE  
CHARLESTON 25305

WILLIAM H. GILLESPIE  
ADMINISTRATIVE ASSISTANT

May 10, 1977

Honorable John D. Rockefeller IV  
Governor, State of West Virginia  
Capitol Building  
Charleston, WV 25305

Dear Governor Rockefeller:

Enclosed are two copies of the regulations promulgated by Agriculture Commissioner Gus R. Douglass to implement the West Virginia Noxious Weed Act of 1976, Chapter 19, Article 12 D of the Code of West Virginia. These will be designated as Series 14 a.

A public hearing, after due notice, was held on April 18, 1977, and no adverse comments were received.

The proposed regulations were submitted to the Legislative Rule Making Committee and the State Register through the Secretary of State on May 10, 1977.

Sincerely,

William H. Gillespie  
Administrative Assistant

WHG/rkd  
Enc.



FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

GUS R. DOUGLASS  
COMMISSIONER

STATE OF WEST VIRGINIA  
DEPARTMENT OF AGRICULTURE  
CHARLESTON 25305

THIS DATE 5/10/77  
W.H.

WILLIAM H. GILLESPIE  
ADMINISTRATIVE ASSISTANT

May 4, 1977

Mr. Earl Vickers, Director  
Legislative Services  
East Wing, Capitol Building  
Charleston, WV 25305

Dear Mr. Vickers:

I am enclosing 17 copies of proposed rules and regulations promulgated by the Commissioner to implement the West Virginia Noxious Weed Act of 1976, Chapter 19, Article 12D of the State Code of West Virginia. They establish necessary terminology and declare certain weeds to be "Noxious" in addition to Multiflora Rose which is designated as such in the body of the statute (19-12D-5).

Would you please acknowledge their receipt so our files will be complete and then steer them to the Legislative rule-making review committee?

A public hearing was held in Charleston on April 18, 1977, and no adverse comments were received. A second hearing was held in Jefferson County at the request of the Jefferson County Farm Bureau so that interested farmers would comment. Again, adverse comments were not received. The hearing was announced on March 7, 1977, by the new release to all state papers, the Market Bulletin and by special notification to the West Virginia University College of Agriculture, and the Agricultural Stabilization and Conservation Service.

We are also filing the regulations with the Secretary of State through utilization of the form designated by that official.

Sincerely,

William H. Gillespie  
Administrative Assistant

WHG/rkd  
Enc.

cc - Gus R. Douglass  
A. E. Cole  
William Harrington



STATE OF WEST VIRGINIA  
OFFICE OF THE SECRETARY OF STATE  
CHARLESTON 25305

A. JAMES MANCHIN  
SECRETARY OF STATE

STATE REGISTER FILING

I, Gus R. Douglass, Commissioner,  
Department of Agriculture,  
Department or Division, hereby submit to record in

the State Register on 8 1/2 x 11" paper two (2) copies of

- proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- proposed rules and regulations superseding rules and regulations already on file;
- notice of hearing;
- findings and determinations;
- rules and regulations; or
- other - specify (

**FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA**

This filing pertains to

Chapter 19  
Article 12-D  
Series 14-a  
Section 1-7  
Page No. \_\_\_\_\_

**THIS DATE** 5/10/77  
L.N.J.

- proposed rules and regulations are required to go to Legislative Rule Making Committee; Have been sent.
- proposed rules and regulations are excluded from Legislative Rule Making Committee;

May 9, 1977  
Date Submitted

W. H. Gillespie  
Signature of Person Authorizing  
this Filing



GUS R. DOUGLASS  
COMMISSIONER

STATE OF WEST VIRGINIA  
DEPARTMENT OF AGRICULTURE  
CHARLESTON 25305

WILLIAM H. GILLESPIE  
ADMINISTRATIVE ASSISTANT

May 10, 1977

**FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA**

Mr. William Harrington  
Rules and Regulations Division  
Secretary of States Office  
State Capitol - West Wing  
Charleston, WV 25305

**THIS DATE** 5/10/77  
W.H.G.

Dear Mr. Harrington:

I am enclosing two copies of the regulations promulgated by Agriculture Commissioner Gus R. Douglass, to implement the West Virginia Noxious Weed Act of 1976, Chapter 19, Article 12D of the State Code of West Virginia.

These will be designated as Series 14 a.

They were submitted to the Legislative Rule-Making Committee on May <sup>10</sup>/~~7~~, 1977.

Would you please acknowledge their receipt so our files will be complete?

Sincerely,

William H. Gillespie  
Administrative Assistant

WHG/rkd  
Enc.

cc - Gus R. Douglass  
A. E. Cole  
Earl Vickers

WEST VIRGINIA NOXIOUS WEED ACT OF 1976

REGULATIONS

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

SECTION 1 - GENERAL

THIS DATE 5/10/77  
444

1.01 SCOPE

These regulations establish general operating rules and procedures for the enforcement of the West Virginia Noxious Weed Act of 1976 (Article 12D) including, but not limited to, the declaration of noxious weeds.

1.02 AUTHORITY

These regulations are issued under authority of Chapter 19, Article 12D, Sections 4 and 5, Code of West Virginia 1931 as amended.

1.03 EFFECTIVE DATE

These regulations are promulgated on the 29th day of April, 1977, and become effective \_\_\_\_\_.

1.04 FILING DATE

These regulations were filed in the Office of the Secretary of State on \_\_\_\_\_.

1.05 CERTIFICATIONS

These regulations are certified authentic by the Secretary of State.

SECTION 2 - DECLARATION OF POLICY

Article 12D, Chapter 19, Code of West Virginia, places the enforcement of the West Virginia Noxious Weed Act of 1976 with the West Virginia Commissioner of Agriculture and empowers him to promulgate rules and regulations in the public interest for the surveillance of, suppression and control of, and the declaration of noxious weeds in West Virginia.

By virtue of the authority invested in me as Commissioner of Agriculture by Article 12D, Chapter 19 of the Code of West Virginia as amended, I, Gus R. Douglass, Commissioner of Agriculture, do hereby promulgate the following rules and regulations governing the control and suppression of noxious weeds and do declare certain plant species to be noxious as determined by surveys.

### SECTION 3 - DEFINITIONS

3.01 For the purpose of these regulations, the definitions shall be the same as those appearing in the West Virginia Noxious Weed Act of 1976, with the following additions:

a. The term "Cooperative suppression or control agreement" means a written agreement entered into by the Commissioner and one or more other person which defines the responsibilities of each party and may include, but not be limited to, suppression or control procedures and methods, cost sharing, tenure of agreement and conditions.

### SECTION 4 - COOPERATIVE SUPPRESSION AND CONTROL

A. When it has been determined that ~~an infestation of a noxious weed exists~~ a plant is a noxious weed for which suppression and control activities are practical, the Commissioner may:

1. Declare a quarantine if necessary.
2. Enter into cooperative suppression or control agreements with any person, or,
3. Proceed with suppression or control activities under authority of §19-12D-7(c).

### SECTION 5 - DECLARATION OF NOXIOUS WEEDS

5.01 a. Surveys have shown that the following plants are a detriment to agriculture in West Virginia and are hereby declared to be a Noxious Weed; Sorghum halepense (L) or Johnson grass; Carduus acanthoides L. or plumeless thistle; C. crispus L. or curled thistle, and C. nutans L. or must thistle.

5.02 a. The plant known as Kudzu or Pueraria thunbergiana (S and Z) Benth. has become or threatens to become a detriment to agriculture in West Virginia and is hereby declared to be noxious.

**FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA**

**THIS DATE 7/7/72**

b. Because Kudzu has a potential value as a forage crop, the Commissioner may issue a permit for its cultivation. Such permit shall be issued by the Commissioner upon application by a prospective grower who agrees to follow cropping practices prescribed by the Commissioner. Such cropping practices shall include, but not be limited to, measures to prevent the spread of Kudzu to roadsides, rights-of-way or woodlands.

c. The Plant known as Autumn olive or Elaeagnus umbellata Thunb. has become a detriment to agriculture in West Virginia and is hereby declared to be noxious. Surveys have shown, however, that Autumn olive has not spread on to farmland in certain areas of the state and therefore the planting or sale of Autumn olive is prohibited only in the following West Virginia counties: Barbour, Braxton, Cabell, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Mason, Monongalia, Pleasants, Putnam, Ritchie, Roane, Taylor, Tyler, Upshur, Wetzel, Wirt, and Wood.

5.03 The following drug producing plants which are declared to be noxious by the West Virginia Noxious Weed Act (§19-12D-8(c)) are as follows: Marijuana, Cannabis sativa L.; and opium poppy, Papaver somniferum L.

#### SECTION 6 - SALE, USE OR DISTRIBUTION OF NOXIOUS WEED PLANTS PROHIBITED

6.01 The sale, use or distribution of noxious weed plants, except as provided for in 5.02 b. and 5.02 c. is prohibited in accordance with §19-12D-7.

#### SECTION 7 - EFFECTIVE DATE

7.01 Done in the office of the Commissioner, West Virginia Department of Agriculture, Capitol Building, Charleston, West Virginia 25305, this 29th day of April, 1977, to become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 1977.



GUS R. DOUGLASS  
COMMISSIONER

STATE OF WEST VIRGINIA  
DEPARTMENT OF AGRICULTURE  
CHARLESTON 25305

WILLIAM H. GILLESPIE  
ADMINISTRATIVE ASSISTANT

May 10, 1977

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 5/10/77  
W.H.G.

Mr. William Harrington  
Rules and Regulations Division  
Secretary of States Office  
State Capitol - West Wing  
Charleston, WV 25305

Dear Mr. Harrington:

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These will be designated as Series 14 a.

They were submitted to the Legislative Rule-Making Committee on May <sup>10</sup>/<sub>7</sub>, 1977.

Would you please acknowledge their receipt so our files will be complete?

Sincerely,

William H. Gillespie  
Administrative Assistant

WHG/rkd  
Enc.

cc - Gus R. Douglass  
A. E. Cole  
Earl Vickers

WEST VIRGINIA NOXIOUS WEED ACT OF 1976  
REGULATIONS

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

SECTION 1 - GENERAL

THIS DATE 5/10/77

1.01 SCOPE

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By virtue of the authority invested in me as Commissioner of Agriculture by Article 12D, Chapter 19 of the Code of West Virginia as amended, I, Gus R. Douglass, Commissioner of Agriculture, do hereby promulgate the following rules and regulations governing the control and suppression of noxious weeds and do declare certain plant species to be noxious as determined by surveys.

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5.02 a. The plant known as Kudzu or Pueraria thunbergiana (S and Z) Benth. has become or threatens to become a detriment to agriculture in West Virginia and is hereby declared to be noxious.

**F.I.E. IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA**

**THIS DATE 7/2/77**

b. Because Kudzu has a potential value as a forage crop, the Commissioner may issue a permit for its cultivation. Such permit shall be issued by the Commissioner upon application by a prospective grower who agrees to follow cropping practices prescribed by the Commissioner. Such cropping practices shall include, but not be limited to, measures to prevent the spread of Kudzu to roadsides, rights-of-way or woodlands.

c. The Plant known as Autumn olive or Elaeagnus umbellata Thunb. has become a detriment to agriculture in West Virginia and is hereby declared to be noxious. Surveys have shown, however, that Autumn olive has not spread on to farmland in certain areas of the state and therefore the planting or sale of Autumn olive is prohibited only in the following West Virginia counties: Barbour, Braxton, Cabell, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Mason, Monongalia, Pleasants, Putnam, Ritchie, Roane, Taylor, Tyler, Upshur, Wetzel, Wirt, and Wood.

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6.01 The sale, use or distribution of noxious weed plants, except as provided for in 5.02 b. and 5.02 c. is prohibited in accordance with §19-12D-7.

#### SECTION 7 - EFFECTIVE DATE

7.01 Done in the office of the Commissioner, West Virginia Department of Agriculture, Capitol Building, Charleston, West Virginia 25305, this 29th day of April, 1977, to become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 1977.



STATE OF WEST VIRGINIA  
DEPARTMENT OF AGRICULTURE

CHARLESTON

25305  
July 6, 1977

Gus R. Douglass  
Commissioner

Mr. Earl Vickers  
Legislative Services  
Capitol Building  
Charleston, WV 25305

Dear Mr. Vickers:

Upon the advice of your man who is working with the  
Legislative rule-making committee and concurrence by Commissioner  
Douglass, I am submitting the following amendment to regulations  
now under consideration.

Thank you,

William H. Gillespie  
Assistant to Commissioner

WHG/rkd  
Enc.  
cc - William Harrington  
Governor John D. Rockefeller IV

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 7/7/77



STATE OF WEST VIRGINIA  
OFFICE OF THE SECRETARY OF STATE  
CHARLESTON 25305

A. JAMES MANCHIN  
SECRETARY OF STATE

STATE REGISTER FILING

I, William H. Gillespie, Assistant to Commissioner,  
Title or Position

Department of Agriculture, hereby submit to record in  
Department or Division

the State Register on 8 1/2 x 11" paper two (2) copies of

- ( ) proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- ( ) proposed rules and regulations superseding rules and regulations already on file;
- ( ) notice of hearing;
- ( ) findings and determinations;
- ( ) rules and regulations; or
- (X) other - specify (Amendment to rules & regulations presently under /consideration by Legislative Rule Making Committee as suggested by this filing pertains to /their counsel. These regulations were /originally filed with the Secretary of /State on 5/10/77. )

Chapter 19  
Article 12D Sections 4 & 5.  
Series 14a  
Section \_\_\_\_\_  
Page No. 2

- (X) proposed rules and regulations are required to go to Legislative Rule Making Committee;
- ( ) proposed rules and regulations are excluded from Legislative Rule Making Committee;

OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

June 6, 1977.  
Date Submitted

THIS DATE 7/7/77

William H. Gillespie  
Signature of Person Authorizing  
this Filing