

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Aerial Application of Herbicides to Rights of Way

Type of Rule: X Legislative Interpretive Procedural

Agency Department of Agriculture Address Capitol Building Room 28

Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

No increase or decrease is expected as these regulations replace similar repealed regulations promulgated under the old state pesticide law. Programs are on going.

3. Objectives of these rules:

To reestablish regulations governing the aerial application of herbicides to right-of-way. The regulations establish prior notification and minimum spray distances.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE - These regulations are a continuation of prior existing activities.

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

NONE - These regulations are a continuation of prior existing activities.

C. Economic Impact on Citizens/Public at Large.

NONE - These regulations are a continuation of prior existing activities.

Date: May 30, 1991

Signature of Agency Head or Authorized Representative



DATE: August 8, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Department of Agriculture

LEGISLATIVE RULE TITLE: Regulations to Govern the Aerial Application of Herbicides to Rights of Way.

1. Authorizing statute(s) citation 19-16A

2. a. Date filed in State Register with Notice of Hearing:
June 4, 1991

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

press release to all newspapers in the state; Fred Butler

and Steve Hannah, WV Farm Bureau; George Carenbauer, Steptoe

and Johnson, all registered aerial application businesses.

c. Date of hearing(s): July 12, 1991

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

Attached X No comments received

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

August 8, 1991

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

Robert Frame 348-2209

Barbara Smith 348-2226

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.

b. Date of hearing: _____

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

d. Attach findings and determinations and reasons:

Attached _____

SUMMARY OF LEGISLATIVE RULE 11-12D

This rule establishes procedures for prior notification to citizens for the aerial application of herbicides to rights-of-way. Minimum spray distances are specified in areas near streams, ponds, crops, structure and roads. Spraying restrictions are established for certain climatic conditions such as temperature, wind, fog and rain.

STATEMENT OF CIRCUMSTANCE

The passage of the 1990 Pesticide Control Act repealed the earlier Pesticide Use and Application Act, thereby rendering ineffective all regulations in place. This rule reestablishes the prior regulation governing the aerial application of herbicides to rights-of-way with minor changes.

TITLE 61
WEST VIRGINIA LEGISLATIVE RULE
WEST VIRGINIA DEPARTMENT OF AGRICULTURE
SERIES XIID

Title: Aerial Application of Herbicides to Rights-of-Way

61-12D-1. General

1.1 Scope - This legislative rule establishes the minimum standards governing the aerial application of herbicides to right-of-ways.

1.2 Authority - W. Va. Code 19-16A

1.3 Filing Date -

1.4 Effective Date -

1.5 Repeal of Former Rule - This legislative rules repeals and replaces West Virginia Department of Agriculture Administrative Regulations Series XIID effective September 1, 1981.

61-12D-2. Prior Notification

2.1 Persons intending to apply herbicides aurally on any right-of-way, except on right-of-ways specifically excepted by laws held by the Attorney General of West Virginia to be preemptory, shall provide notification in writing to the commissioner of the West Virginia Department of Agriculture, to all news media within the counties where the aerial herbicide application program is to be conducted, to all persons in the spray area on the hypersensitivity registry maintained by the West Virginia Department of Agriculture and to all property owners, tenants or other persons in control of land adjacent to the right-of-ways, who have made a written request for special advance notification, at least 60 days and no more than 120 days prior to the anticipated beginning of the aerial spray program. Written request for special advance notification shall include the name, mailing address, property location and telephone number, if any, of the person making the request.

2.1.a The notice shall include, but is not limited to:

- 2.1.a.A. description of the area(s) to be aerial sprayed;
- 2.1.a.B. a toll-free telephone number of a utility office to which people can call to alert the utility to sensitive areas - including, but not limited to springs, wells, streams, lakes, ponds, orchards, crop areas, gardens, pastures, meadows, year around dwellings, public recreation areas, and Christmas tree plantations. A caller should, whenever possible, reference the location they are calling about to pole or tower numbers on the right-of-ways;
- 2.1.a.C. an address to which the information detailed in 2.1.a.B can be mailed or delivered in lieu of telephoning;
- 2.1.a.D. information describing how a land owner or tenant can enter into a right-of-way maintenance agreement with the utility;
- 2.1.a.E. the location of a county or area office where individuals can inspect maps showing the location of right-of-ways that are included in the proposed spray program;
- 2.1.a.F. the herbicides to be used in the project, and
- 2.1.a.G. the procedures to be followed in lodging a complaint with either the utility or with the West Virginia Department of Agriculture.

2.1.b. The utility shall, on a weekly basis, provide the contemplated aerial spray program for the following week to the commissioner of the West Virginia Department of Agriculture and to a radio or TV station serving the each county in which the aerial application of herbicides is planned. The initial notice each year shall be made on each of two weeks immediately proceeding the proposed beginning of the aerial herbicide spraying program.

61-12D-3 Procedural Prohibitions and Restrictions.

3.1 Aerial application of herbicides shall not be made when:

Dept. of Agriculture
Leg. Rule, 19-16A
Series XIID, Sec. 2

3.1.a. the wind velocity in the local area exceeds five (5) miles per hour;

3.1.b. when the spray may come into contact with fog banks;

3.1.c. during periods of temperature inversion and air stagnation;

3.1.d. when the air temperature exceeds 90 degrees Fahrenheit - except for the application of low-volatile amines and chemicals whose volatility is known not to be a problem;

3.1.e. when it is raining or reasonably apparent that it will rain within two hours, or;

3.1.f. when the distance between transmission line(s) at maximum design sag and the ground is greater than 100 feet.

3.2 Before herbicides are applied, the applicator shall fly a reconnaissance flight over the area to be sprayed and shall not apply herbicides if humans or domestic animals are visible in areas subject to the intended application of herbicides.

3.3 Herbicides shall not be applied to any body of water during aerial spraying of right-of-ways to control woody vegetation.

61-12D-4. Minimum Spray Distances

4.1 Herbicides shall not be applied within the distance specified in the charts. The following minimum spray distances shall be adhered to unless greater distances are specified on the label of the pesticide.

4.1.a. Formulations Containing Picloram or Dicamba
herbicides:

ITEM

Ponds	100 feet
Year Around Flowing Water (including wells, springs, and other water areas used for domestic purposes)	200 feet
Cultivated Land, Except Tobacco	100 feet
Tobacco	500 feet
Christmas Tree Plantations	100 feet
Pasture Lands	100 feet
Public Recreation Areas	100 feet
Residential Structures (used as year-around homes)	150 feet
Barns and Other Outbuildings Where People or Livestock Might Ordinarily Be Expected	150 feet
County, State, and Federal, Graveled or Paved Road Crossovers and Lines paralleling such Roads	50 feet

4.1.b. Other Herbicide Formulations Not Listed in 4.1.a.
Above.

ITEM

Ponds	100 feet
Year Around Flowing Water (including wells, springs, and other water areas used for domestic purposes)	200 feet
Cultivated Land, except Tobacco	100 feet
Tobacco	200 feet
Pasture Lands	100 feet
Christmas Tree Plantations	100 feet
Residential Structures (used as year around homes)	100 feet
Barns & Other Outbuildings Where People or Livestock Might Ordinarily Be Expected	150 feet
Public Recreation Areas	150 feet
County, State, and Federal, Graveled or Paved Road Crossovers and lines Parallelling such Roads	50 feet

4.2. Application Spray System.

The buffer zone distance listed in 4.1.a. and 4.1.b. shall apply to applications utilizing drift control system such as a microfoil spray boom or its equivalent. Persons using non-drift control technology in the aerial application of herbicides shall notify the commissioner of the West Virginia Department of Agriculture in writing and will be required to specify minimum spray distances at least double those listed in 4.1.a. and 4.1.b.

4.3 Measured Tolerance.

A tolerance of ten (10) percent in the buffer zone distances will be used to assess acceptability with this Section.

61-12D-5. Company Montiroing Herbicide Applications to their Rights-of-Way.

5.1.a. Utility personnel shall inspect their right-of-ways which have been sprayed with herbicides to insure that applicable standards have been adhered to and shall keep logs of such inspections on files for no less than two (2) years.

61-12D-6. Exceptions

6.1 When a person owns a right-of-way wholly on their private or corporate property, they may request a deviation from the prior notification requirements of Section 2 of this rule. The commissioner may grant a deviation from these requirements in situations where prior notification does not serve to protect the public interest. Each request for deviation made will be considered on a case by case basis.

6.2 Persons requesting a deviation from Section 2 of this rule shall provide the Commissioner with the following information.

6.2.1.a. The location of the right-of-way to be treated.

6.2.1.b. The distance from the right-of-way to residences, public highways, agricultural lands or navigatible rivers.

6.2.1.c. The herbicides to be sprayed, including application rates.



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE

State Capitol
Charleston, WV 25305

Cleve Benedict
Commissioner

M E M O R A N D U M

TO: The Record

FROM: Robert E. Frame, Director, Pesticide Division

SUBJECT: Public Hearing for Rules Titled "Aerial Application of Herbicides to Rights-of-Way"

DATE: August 1, 1991

A public hearing was held on July 12, 1991 at 3:00 p.m. in the conference room of the Guthrie Agricultural Center, to receive comments on the proposed rules on the Aerial Application of Herbicides to Rights-of-Way. A notice of the public hearing was filed with the Secretary of State's office on June 4, 1991. A notice of the hearing and summary of the proposed rule was sent to all aerial right-of-way applicators. A general press release was also made to announce the hearing. A copy of the proposed rule was mailed to all persons or parties making requests.

On July 12, 1991 at 3:00 p.m., five (5) people were present for the hearing. Mr. Rex Bartlett of Monongahelia Power Company spoke to regulation. Mr. Bartlett asked that the time frame for prior notification be changed from 90-120 days to 60-120 days prior to the start of the spray operation. This change in notification would allow for better planning and coordination with their other right-of-way programs. Mr. Lynn Grayson of Appalachian Power company spoke to support Mr. Bartlett's comments.

Written comments were received from the Potomac Edison Company and Appalachian Power Company. Their written comments are attached to this report, along with the transcript of the hearing.

Public Hearing
Page 2
August 1, 1991

During a discussion session prior to the hearing, Mr. Carl Milko of Summit Helicopters inquired as to the applicability of the regulation to coal mining properties and other large land holders having a desire to aeriually spray their rights-of-way. They often cannot reasonably comply with a 60-90 day pre-notification period, as the aerial contractor may only be available for a short time. In many instances the right-of-way is wholly on the private property and no residences are near the right-of-way to be sprayed. He asked that some consideration or allowance be made for these situations.

The comments received did not interfere with the intent of the proposed rule, and as such were incorporated.

/bc

Attachments

NAME	ADDRESS	AFFILIATION	DO YOU WISH TO SPEAK?
REX L. BRETZET	180 FAIRMONT RD. FAIRMONT, W. VA. 26554	Morgan's Horse Company	NO
Lynn Gayson	P.O. Box 3021 Roanoke, VA 24002	Appalachian Power Co.	NO
PHIL ROSS	P.O. Box 1984 CHAS., WV 25327	WETHELMAN POWER CO.	NO
Craig Carter	PO Box 1273 Chas. WV 25325	Cummins Gas	NO
Carl Milko	P.O. Box 39 CLOVERDALE VA 24011	Summit Telescopes INC.	NO

Proposed Rule Title 61 Series 12D
"Aerial Application of Herbicides to Rights of Way"
HEARING TRANSCRIPT
July 12, 1991
3:00 p.m.

Attendees:

Barbara Smith
Robert Frame
Rex Bartlett
Lynn Grayson

Phil Ross
Craig Carte
Carl Milko

Barbara Smith: This is the hearing for the regulations to govern the aerial application of herbicides to right of way. The date and the time of the hearing is July 12, 1991 at 3:00 p.m. and the notice of the hearing was filed in the Secretary of State's office on June 4th 1991. This hearing is to take all comments received on this issue and we will be taking comments from anyone who is present at the hearing. Does anyone wish to give a comment at this time? Rex Bartlett with Monongahela Power. Go ahead Rex.

Rex Bartlett: My name is Rex Bartlett I am the forester for Monongahela Power Company. I work out of Fairmont, West Virginia. I would like to make one brief comment concerning prior notification for notifying property owners of our intent to aerially spray under the paragraph entitled "Prior notification" 2.1 I would request that the parameters as given 90 days at least 90 days and no more than 120 days prior to commencement of the aerial spray program be changed to read " at least 60 days and no more than 120 days prior to commencement of the aerial spray program". This will allow us greater flexibility in planning our work, making adjustments as we discover them and would also lend more continuity to the different programs we have in place which include aerial spraying and ground spraying from our transmission distribution points.

Barbara: Is there anyone else that wishes to make a comment?

Lynn Grayson: I would like to make a quick comment to support that. This is Lynn Grayson with Appalachian Power based in Roanoke, Virginia. I would support Rex's comments in regard to the prior notification.

Barbara: If there are no more comments this hearing is closed.



The Potomac Edison Company

Part of the Allegheny Power System

Downsville Pike
Hagerstown, MD 21740

July 2, 1991

West Virginia Department of Agriculture
Pesticide Division
1900 Kanawha Blvd. East
Charleston, WV 25305

Gentlemen:

Aerial Application of Herbicides on Rights-of-Way

Potomac Edison supports the proposed regulations governing the aerial application of herbicides to rights-of-way.

Very truly yours,

M. R. Watson
Supervisor, Forestry

MRW/amf

Appalachian Power Company
PO Box 2021
Roanoke, VA 24022-2121
703 985 2300

JUL 11 1991



Mr. Robert E. Frame, Director
Pesticide Division
West Virginia Dept. of Agriculture
1900 Kanawha Blvd., East
Charleston, WV 25305

July 5, 1991

Dear Mr. Frame:

Re: Proposed Rules Regarding Aerial Application Of Herbicides To
Rights-of-Way

Following are the comments and recommendations from Appalachian Power
Company:

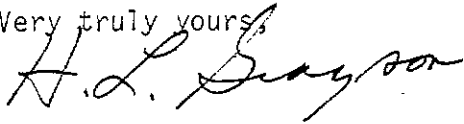
1. The current wording should be retained regarding Section 2.1; i.e., that this notification be provided ". . . to all news media within the counties where the herbicide application program is to be conducted . . ." This notification, along with the notification that is required by the Public Service Commission, is helpful to us and to the general public in that we are able to exchange information regarding sensitive areas, herbicide safety, etc.
2. Delete the requirement in Section 2.1.B that the following week's spray schedule be provided to ". . . newspapers of general circulation within each county in which the aerial application of herbicides is planned." The news release should be provided to TV and radio stations as required; however, newspapers present some difficulties in complying with this section. Newspapers -- particularly weeklies -- require a long lead time for publication of such releases. It is difficult to get the release submitted and published the two weeks preceding the proposed beginning of the spray program due to the weather-related unpredictability of our spray schedule. As frequently happens, the releases can be inaccurate regarding timing of the spray schedule. In addition, the newspapers often choose to include only a portion of the full release. As a result, the public becomes misinformed and confused. Radio and TV stations can provide the most current information to the public. We feel that the paid ads as required in Section 2.1 provide adequate newspaper coverage.

Robert E. Frame
July 5, 1991
Page 2

3. Under Section 4.1, the minimum spray distances should be 100 feet from public recreation areas for both formulations.

Thank you very much for the opportunity to comment on the subject regulations.

Very truly yours,



H. L. Grayson
Forestry Superintendent

HLG:bh

C: M. L. Pollard - T&D Administrative
J. E. Elswick - G.O. Distribution
E. D. Sayers, Jr. - Bland Street Office, Bluefield
P. T. Ross - Charleston Office
B. D. Johnson - G.O. Public Affairs

JUL 08 1991



Cleve Benedict
Commissioner of Agriculture

NEWS RELEASE

July 8, 1991

Charleston, West Virginia 25305

Public hearings scheduled for new regulations

Agriculture Commissioner Cleve Benedict announced a series of public hearings on new regulations and encouraged public participation in the process.

Benedict said the public hearings give the West Virginia Department of Agriculture (WVDA) the opportunity to modify regulations after taking public input into consideration.

In addition to the public hearings, written comments will be accepted until the time of the hearing. The public hearings will be held on the following days:

July 12, 1 p.m.	Licensing of Pesticide Business
July 12, 3 p.m.	Regulations to Govern Aerial Application of Herbicides to Right of Way
July 29, 10 a.m.	Frozen Desserts and Imitation Frozen Desserts
July 29, 2 p.m.	Commercial Feed
July 30, 10 a.m.	Assessment of Civil Penalties for Consent Agreement or Negotiated Settlements (Pesticides)
July 30, 1 p.m.	Certified Pesticide Applicator
July 31, 10 a.m.	Licensing of Livestock Dealers
August 1, 10 a.m.	Disposal of Dead Poultry

All hearings will be held in the J. T. Johnson Conference Room in Building 2 of the Guthrie Agricultural Center, Charleston, W.Va., except for the Disposal of Dead Poultry hearing. The Dead Poultry hearing will be held at the Moorefield Agricultural Center.

Comment period deadlines for the following regulations (there are no public hearings) will be July 29 at noon:

Plant Pest Act
West Virginia Apiary Law of 1991
Animal Disease Control

For more information on how to comment on the new regulations, contact Barbara Smith, Director of Compliance, WVDA, at 304/348-2226.

---0---



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE

State Capitol
Charleston, WV 25305

Cleve Benedict
Commissioner

NOTICE OF PUBLIC HEARING FOR COMMENTS ON
AERIAL APPLICATION OF HERBICIDES ON RIGHTS-OF-WAY

Proposed regulations governing the aerial application of herbicides to rights-of-way have been filed with the Secretary of State and a hearing has been scheduled for July 12, 1991 to receive comments. The hearing is scheduled to begin at 3:00 p.m. in the J. T. Johnson Conference Room, Building 2 of the Guthrie Agriculture Complex, Charleston, WV 25312. Comments will be accepted by oral presentation, written or both. Written comments should be submitted to the West Virginia Department of Agriculture, Pesticide Division, 1900 Kanawha Blvd. E., Charleston, WV 25305.

The regulations establish rules for pre-notification of pesticide application, a mechanism for consumer contacts to the utility contracting for spraying, prohibition of spraying for certain weather conditions, and provides for minimum spray distance to streams, buildings, crops, roads, etc. The regulations re-establish under the Pesticide Control Act of 1990, those rules and regulations in effect under the Pesticide Use and Application Act of 1975.

A copy of the full regulation may be obtained by calling (304) 348-2209.

WEST VIRGINIA DEPARTMENT OF AGRICULTURE
WEST VIRGINIA PESTICIDE USE & APPLICATION
ACT OF 1975

ADMINISTRATIVE REGULATIONS

CHAPTER 19-2
Series XIIIa (Supplement)

SUBJECT: Regulations to Govern the Aerial Application of Herbicides
To Right-of-Ways.

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

EFFECTIVE DATE: September 1, 1981.

SECTION 29. PRIOR NOTIFICATION

A. Persons intending to apply herbicides aerially on any right-of way, except on right-of ways specifically excepted by laws held by the Attorney General of West Virginia to be preemptory, shall provide notification in writing, to the Pesticide Section of the West Virginia Department of Agriculture, to radio and television stations within the area, to at least one newspaper of general circulation within the area, and to all property owners, tenants or other persons in control of land adjacent to the right-of-ways, who have made a written request for special advance notification, at least 90 days and no more than 120 days prior to the anticipated beginning of the aerial spray program. (Written request for special advance notification shall include the name, mailing address, property location and telephone number, if any, of the person making the request.

1. The notice shall include, but is not limited to:

- a. description of the area(s) to be aerially sprayed;
- b. a toll-free telephone number of a utility office to which people can call to alert the utility to sensitive areas - including, but not limited to springs, wells, streams, lakes, ponds, orchards, crop areas, gardens, pastures, meadows, year around dwellings, public recreation areas, and Christmas tree plantations. A caller should, whenever possible, reference the location they are calling about to pole or tower numbers on the right-of-ways;
- c. an address to which the information detailed in A-1-b can be mailed or delivered on lieu of telephoning;
- d. information describing how a land owner or tenant can enter into a right-of-way maintenance agreement with the utility;

-2021

Bob Pollitt
8-32-80

Certain
gas transmission
lines under
Federal Control

- e. the location of a county or area office where individuals can inspect maps showing the location of right-of-ways that are included in the proposed spray program;
 - f. the herbicides to be used in the project, and
 - g. the procedures to be followed in lodging a complaint with either the utility or with the West Virginia Department of Agriculture.
- B. The utility shall each week provide the contemplated aerial spray program for the following week to the Pesticide Section of the Plant Pest Control Division of the West Virginia Department of Agriculture, to a radio or TV station serving the area and to a newspaper of general circulation within each county in which the aerial application of herbicides is planned. The initial notice each year shall be published on each of two weeks immediately proceeding the proposed beginning of the aerial herbicide spraying program.

SECTION 30. PROCEDUAREL PROHIBITIONS AND RESTRICTIONS.

- A. Aerial application of herbicides shall not be made when:
- 1. the wind velocity in the local area exceeds five (5) miles per hour;
 - 2. when the spray may come into contact with fog banks;
 - 3. during periods of temperature inversion and air stagnation;
 - 4. when the air temperature exceeds 90° Fahrenheit - except for low-volatile amines and chemicals whose volatility is known not to be a problem;
 - 5. when it is raining or reasonably apparent that it will rain within two hours, and;
 - 6. when the distance between the transmission line(s) at maximum design sag and the ground is greater than 100 feet.
- B. Before herbicides are applied, the applicator shall fly a reconnaissance flight over the area to be sprayed and shall not apply herbicides if humans or domestic animals are visible in areas subject to spraying.
- C. Herbicides shall not be applied to any body of water during aerial spraying of right-of-ways to control woody vegetation.

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

Sec. 31.

A. Formulation Containing Picloram & Dicamba

<u>ITEM</u>	<u>DRIFT CONTROL SYSTEM</u>	<u>STANDARD SYSTEM</u>
Ponds	100 feet	300 feet
Year Around Flowing Water (including wells, springs, and other water areas used for domestic purposes)	200 feet	300 feet
Cultivated Land, except Tobacco	100 feet	300 feet
Tobacco	500 feet	500 feet
Christmas Tree Plantations	100 feet	200 feet
Pasture Lands	100 feet	300 feet
Public Recreation Areas	100 feet	300 feet
Residential Structures (used as year around homes)	150 feet	300 feet
Barns and Other Outbuildings Where People or Livestock Might Ordinarily Be Expected	150 feet	300 feet
County, State, and Federal, Graveled or Paved Road Crossovers	50 feet	100 feet

B. Phenoxy & Other Herbicide Formulations Not Listed in A (Above)

<u>ITEM</u>	<u>DRIFT CONTROL SYSTEM</u>	<u>STANDARD SYSTEM</u>
Ponds	100 feet	200 feet
Year Around Flowing Water (including wells, springs, and other water areas used for domestic purposes)	200 feet	200 feet
Cultivated Land, except Tobacco	100 feet	200 feet
Tobacco	200 feet	300 feet
Pasture Lands	100 feet	200 feet
Christmas Tree Plantations	100 feet	200 feet
Residential Structures (used as year around homes)	150 feet	300 feet
Barns & Other Outbuildings Where People or Livestock Might Ordinarily Be Expected	150 feet	300 feet
Public Recreation Areas	150 feet	300 feet
County, State, and Federal, Graveled or Paved Road Crossovers	50 feet	100 feet

*A tolerance of ten(10) percent in the buffer zone distances will be used to assess acceptability with this Section.

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

Utility personnel shall inspect their right-of-ways which have been sprayed with herbicides to insure that applicable standards have been adhered to and shall keep logs of such inspections on file for no less than two (2) years.

AGENCY MODIFICATIONS TO RULE
IN RESPONSE TO COMMENTS RECEIVED

Section 2.1 was amended to allow for public notice from 90-120 days to 60-120 days.

Section 6 was added to allow for an exception to public notice under certain conditions where the right-of-way is wholly owned by on landowner, and the request is from that land owner.