



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON
25305

Gus R. Douglass
Commissioner

NEWS RELEASE

AERIAL APPLICATION HERBICIDES REGULATIONS HEARING

Charleston, W. Va. - October 7, 1981. Agriculture Commissioner Gus R. Douglass has announced a public hearing for 1:00 P.M., Tuesday, November 10, 1981, to consider the effectiveness of the "Regulations to Govern the Aerial Application of Herbicides To Right-of-ways", promulgated earlier in the year. The meeting will be held in the J. T. Johnson Conference Room in the basement of the East Wing of the State Capitol Building.

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 10-7-81
Administrative Law Division



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

West Virginia 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; 1:00 P.M., Tuesday, November 10, 1981;
- findings and determinations;
- rules and regulations; or
- other - specify (

This filing pertains to

Chapter 19-2
 Article 16-B
 Series XIIa (supplement)
 Section 4a
 Page No. _____

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 A. JAMES MANCHIN
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- proposed rules and regulations are required to go to Legislative Rule Making Committee;
- proposed rules and regulations are excluded from Legislative Rule Making Committee;

October 1, 1981
 Date Submitted

W. H. Gillette
 Signature of Person Authorizing
 this Filing *Asst. to Commissioner*

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

ADMINISTRATIVE REGULATIONS

CHAPTER 19-2
Series XIIa (Supplement)

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 10-7-81
Administrative Law Division

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

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

EFFECTIVE DATE: These regulations, due to a request from those being regulated,
are being filed as emergency regulations to become effective
upon filing. They are also being submitted the the Legislative
Rule Making Review Committee for normal implementation.

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 locations 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 in lieu of telephoning;
 - d. information describing how a land owner or tenant can enter into a right-of-way maintenance agreement with

- the utility;
 - 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 preceding the proposed beginning of the aerial herbicide spraying program.

SECTION 30. PROCEDURAL 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.

A. Formulations 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>
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*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.

SECTION 33. REVISION OF REGULATIONS.

The Commissioner will convene a public hearing at 1:00 P.M., on November 10, 1981, to evaluate the effectiveness of these regulations and to consider suggested revisions.



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W. H. Gillespie
 Signature of Person Authorizing
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