WEST VIRGINIA CODE: §31-2-16

§31-2-16. Railroad company pesticide use.

(a) No later than seven days before applying a pesticide to a right-of-way that a railroad company owns or maintains, the railroad company shall provide pesticide safety information, which may be obtained by the railroad company's contracted pesticide applicator, by posting at affected on-duty railroad locations and through train bulletins, dispatcher messages, or other required documentation for each train and engine crew that will be working in the affected pesticide spray area. Additionally, the railroad company shall provide appropriate documentation to ensure prompt notification for maintenance of way, mechanical, signal employees, or other rail workers that will be working in the affected pesticide spray area. A railroad company shall include all of the following in the safety information provided under this subdivision:

(1) The location and description of the area to be treated.

(2) The name of the pesticide, its active ingredients, and its registration number under 7 U.S.C. §§ 136 *et seq*. The material safety data sheet(MSDS) for the pesticide shall satisfy this purpose.

(3) The approximate date and time that the pesticide is to be applied.

(4) Any restricted entry interval specified on the pesticide labeling. The MSDS for the pesticide shall satisfy this purpose: *Provided*, That the railroad company shall not require an employee to reenter the pesticide spray area prior to the requirements specified by the MSDS on the pesticide being utilized: *Provided however*, That train and/or on-track movement is not prohibited.

(5) A description of where the information required to be on the pesticide label under 7 U.S.C. §§ 136 *et seq* or under the provisions of article sixteen-a, chapter nineteen of this code is available for review. The MSDS for the pesticide shall satisfy this purpose.

(6) Emergency medical contact information.

(b) A railroad company shall keep the information required by subsection (a) posted at the location accessible to employees of the railroad for at least thirty days after the day of application.

(c) No later than seven days before applying a pesticide to a right-of-way that a railroad company owns or maintains, the railroad company shall provide all of the following to each individual who directly supervises employees who work in the area to be treated:

(1) The information described in subdivision (2) to (6) of subsection (a); and

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(2) A description of the central location where the railroad company provides the pesticide safety information to employees under the provisions of subsection (a).

(d) A railroad company shall make available to the public on its Internet site a description of how to obtain answers to questions about pesticide use by the railroad company, including a telephone number for the railroad and any toll-free number maintained by the railroad company to provide information about pesticide use.

(e) A railroad company shall provide annual pesticide safety training. This training may coincide with the annual railroad operating rules class or at any other operating or safety training class that is scheduled annually. This training shall be provided to railroad employees who work along railroad rights-of-way and in rail yards and to other employees who, due to the nature of their employment, may work in areas to which pesticides have been applied. It is the duty of the railroad company to keep records for each training session, which should include, but not be limited to, the date of the training session, the employees attending, and the name of the trainer and the trainer's employer. In the training under this subsection, a railroad company shall include, but not be limited to, information about restricted entry intervals, requirements for personal protective equipment, how to read pesticide labels, and incident and complaint reporting.

(f) For purposes of this section, the term "pesticide" is defined by section three, article sixteen-a, chapter nineteen of this code.

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