

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

COCHAIRMEN

ROBERT M. STEPTOE
STATE SENATE
126 EAST BURKE STREET
MARTINSBURG 25401

WILLIAM E. SHINGLETON
HOUSE OF DELEGATES
BOX 1548
FAIRMONT 26554



September 26, 1979

STAFF

LEGISLATIVE SERVICES
E.132 STATE CAPITOL
CHARLESTON 25305
PHONE (304) 348-2040

Hon. A. James Manchin
Secretary of State
W-151 State Capitol
Charleston, West Virginia 25305

Dear Mr. Manchin:

This is notification of approval or disapproval of rules and regulations in accordance with Section 11, Article 3, Chapter 29A of the West Virginia Code.

On September 24, 1979, the Legislative Rule-Making Review Committee approved regulations submitted by the Medical Licensing Board relating to Physicians Assistants.

The Committee approved the following regulations of the Air Pollution Control Commission:

Regulation III - "To Prevent and Control Air Pollution From The Operation of Hot Mix Asphalt Plants";

Regulation VIII - "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter";

Regulation XXI - "To Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From the Storage of Petroleum Liquids in Fixed Roof Tanks";

Regulation XXIII - "To Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Bulk Gasoline Terminals"; and

Regulation XXIV - "To Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Petroleum Refinery Sources."

Regulations XXIII and XXIV were approved with the nonsubstantive amendments attached.

The Committee disapproved the following regulations of the Air Pollution Control Commission:

Regulation VI - "To Prevent and Control Air Pollution From Combustion of Refuse";

September 26, 1979
Page 2

Regulation VII - "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations";

Regulation XVII - "To Prevent and Control Particulate Air Pollution From Materials Handling, Preparation, Storage and Sources of Fugitive Particulate Matter"; and

Regulation XVIII - "To Prevent and Control Particulate Air Pollution From Direct Meat-Firing Devices."

A copy of the approved and disapproved regulations is enclosed.

Very truly yours,

Robert M. Steptoe

Robert M. Steptoe

William E. Shingleton

William E. Shingleton

Enclosures

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

Subject: Regulation III - To Prevent and Control Air Pollution
From the Operation of Hot Mix Asphalt Plants.

INDEX.

<u>Section 1.</u>	<u>Definitions.</u>
1.01.	- "Air Pollution"
1.02.	- "Commission"
1.03.	- "Director"
1.04.	- "Person"
1.05.	- "Fuel Burning Equipment"
1.06.	- "Fuel"
1.07.	- "Plant"
1.08.	- "Air Pollution Control Equipment"
1.09.	- "Smoke"
1.10.	- "Particulate Matter"
1.11.	- "Ringelmann Smoke Chart"
1.12.	- "Fugitive Particulate Matter"
1.13.	- "Particulate Matter Capture System"
1.14.	- "Standard Conditions"
1.15.	- "Opacity"

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 9/27/79

INDEX.

Section 2. Emission of Smoke and/or Particulate Matter
Prohibited and Standards of Measurement -
Visible.

Section 3. Emission of Smoke and/or Particulate Matter
Prohibited and Standards of Measurement -
Weight Emissions.

Section 4. Registration.

Section 5. Permits.

Section 6. Reports and Testing.

Section 7. Delayed Compliance Order.

Section 8. Variance.

Section 9. Circumvention.

Section 10. Effective Date.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
Air Pollution Control Commission

Chapter 16-20
Series III
(1966)
(1979)

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 9/27/79

Subject: Regulation III - To Prevent and Control Air Pollution
From the Operation of Hot Mix Asphalt Plants.

Section 1. Definitions.

1.01. "Air Pollution", 'statutory air pollution', shall have the meaning ascribed to it in Section Two of Chapter Sixteen, Article Twenty of the Code of West Virginia, as amended.

1.02. "Commission" shall mean the West Virginia Air Pollution Control Commission.

1.03. "Director" shall mean the Director of the West Virginia Air Pollution Control Commission.

~~1-03-~~ 1.04. "Person" shall mean any and all persons, natural or artificial, including any municipal, public or private corporation organized or existing under the law of this or any other state or country and any firm, partnership, or association of whatever nature.

~~1-04-~~ 1.05. "Fuel Burning Equipment" shall mean and include any chamber, apparatus, device, mechanism, stack or structure

used in the process of burning fuel or other combustible material for the primary purpose of producing heat for direct heat transfer as applied to an asphaltic hot mix plant excluding internal combustion engines.

1.05. 1.06. "Fuel" shall mean ~~a-fuel-such-as-gas-or-liquid-fuel~~ which-is-fired any gaseous, liquid or solid substance or any combination thereof burned in fuel burning equipment. ~~When-solid-fuels-are-substituted-for-or-used-in-conjunction~~ ~~with-either-of-the-above-fuels,-the-same-regulation-will~~ ~~apply.~~

1.06. 1.07. "Plant" shall mean an 'asphaltic hot mix plant' which shall mean and include all the equipment utilized in the manufacture of asphaltic hot mix concrete, such as burner, drier, elevators, screens, mixer, weighing equipment, bins, air pollution control equipment, etc.

1.07. 1.08. "Air Pollution Control Equipment" is defined as:

(a) Primary collection - That equipment such as cyclones or multicyclones incorporated for the collection of fine particulate ~~material~~ matter generated and emitted principally from the drying operation and from which all collected material may or may not be reinjected into the main aggregate flow.

(b) Secondary collection - That equipment such as multicyclones, scrubbers, bag filters, and electrostatic precipitators incorporated for the collection of that particulate ~~material~~ matter not collected by the primary collection equipment and from which such collected material may or may not be reinjected into the main aggregate flow.

4-2- 1.09. "Smoke" shall mean small gasborne and airborne particles arising from a process of combustion in sufficient numbers to be visible.

1.10. "Particulate Matter" shall mean any material, except uncombined water, that exists in a finely divided form as a liquid or solid.

4- 1.11. "Ringelmann Smoke Chart" shall be the Ringelmann's Scale for Grading the Density of Smoke published by the U. S. Bureau of Mines as information circular 7718, August, 1955, or any chart, recorder, indicator, or device which is a standardized method for the measurement of smoke density which is approved by the Commission as the equivalent of said Ringelmann Scale.

1.10-~~-----"New-Equipment"-shall-mean-all-asphaltic-hot-mix-plants installed-after-the-effective-date-of-this-regulation.~~

4-14- 1.12. "Fugitive Dust Particulate Matter" shall mean any and all particulate matter generated by the operation of an asphalt hot mix plant which, if not confined, would be emitted directly to the atmosphere from points other than the stack outlet.

1.12-~~-----"Fugitive-Dust-Control-System"-shall-mean-any-equip- ment-or-method-used-to-confine, collect, and dispose of fugitive-dust, including hoods, bins, dust-work, fans, air-pollution-control-equipment, etc.~~

1.13. "Particulate Matter Capture System" shall mean any equipment or method used to confine, collect, and transport particulate matter from elevators, screens, mixers, weighing equipment, bins, and other plant components to air pollution control equipment. Particulate matter capture systems shall include, but not be limited to hoods, bins, duct work, enclosures and fans.

1.14. "Standard Conditions" for the purpose of this regulation shall mean a temperature of 68°F (20°C) and a pressure of 29.92 inches of mercury (760 mm of Hg).

1.15. "Opacity" shall mean the degree to which smoke and/or particulate matter emissions reduce the transmission of light and obscure the view of an object in the background.

Other words and phrases used in this regulation, unless otherwise indicated, shall have the meaning ascribed to them in Section Two of Chapter Sixteen, Article Twenty of the Code of West Virginia, 1931, as amended.

Section 2. Emission of Smoke and/or Particulate Matter

Prohibited and Standards of Measurement - Visible

2.01. No person shall cause, suffer, allow or permit emission of smoke and/or particulate matter into the open air from any fuel burning equipment which is as dark or darker in shade or appearance as that designated as No. 1 on the Ringelmann Smoke Chart or twenty percent (20%) opacity.

2.02. The provisions of Sub-Section 2.01 of this Section shall not apply to smoke and/or particulate matter emitted during the starting operation the shade or appearance of which is less than No. 3 on the Ringelmann Smoke Chart or sixty percent (60%) opacity for a period or periods aggregating no more than 4 minutes per start-up.

~~2.03. ---The equivalent opacity of these Ringelmann numbers in Sub-Section 2.01 and Sub-Section 2.02 of this Section shall be used as a guide in the enforcement of Section 3 of this regulation.~~

Section 3. Control Emission of Smoke and/or Prohibition of Particulate Matter Emission Prohibited and Standards of Measurement - Weight Emissions.

3.01. Total allowable emissions from all plants except as defined in Sub-Section 3.02 (a) and (b).

3.04 No person shall cause, suffer, allow or permit particulate matter emissions from a plant into the open air in excess of the quantity as listed in the following table:

Aggregate Process Rate Pounds Per Hour	Stack Emission Rate Pounds Per Hour
10,000	10
20,000	16
30,000	22
40,000	28
50,000	31
100,000	33
200,000	37
300,000	40
400,000	43
500,000	47
600,000 & above	50

For a process weight between any two consecutive process weights stated in this table, the emission limitation shall be determined by interpolation.

3.02. No person shall cause, suffer, allow or permit particulate matter emissions to be discharged into the open air from any stack of a plant located in the following counties and magisterial districts in excess of 0.04 grains per dry standard cubic feet.

(a) Counties - Brooke, Hancock, Ohio, Marshall and Kanawha.

(b) Magisterial Districts - Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), Union and Winfield (Marion County, west of Interstate I-79).

3.02. 3.03 In the case of more than one stack to a hot mix asphalt plant, the emission limitation of Sub-Section 3.01 of this Section will be based on the total emission from all stacks.

3.03. 3.04. No person shall cause, suffer, allow or permit a plant to operate that is not equipped with a ~~fugitive-dust-control~~ particulate matter capture system. This system shall be designed, operated and maintained in such a manner as to prevent the emission of particulate matter ~~material~~ from any point other than the stack outlet.

3.04. 3.05. The owner or operator of the plant shall maintain ~~dust~~ control of fugitive particulate matter on ~~of the~~ plant premises and plant owned, leased, or controlled access roads by paving, oil treatment, or other suitable

measures. Good operating practices shall be observed in relation to stockpiling, screen changing, and general maintenance to prevent ~~dust~~ fugitive particulate matter generation and atmospheric entrainment. Good operating practices, including water spraying or other suitable measures, shall be employed to minimize ~~dust~~ fugitive particulate matter generation and atmospheric entrainment when hot bins are pulled.

Section 4. Registration.

- 4.01. Within thirty (30) days after the effective date of this regulation, all persons operating asphalt hot mix plants within the state shall have registered with the Commission on forms to be made available by the ~~Commission~~ Director the name of the person, company or corporation operating the plant, the address, location, county, ownership (lessee & lessor), the principal officer of the company, and any other such reasonable information as the ~~Commission~~ Director may require including but not necessarily limited to capacity of the plant, type of fuel used, plant operating schedule, description of rotary drier, height and size of stack and description of ~~dust~~ particulate matter control equipment.
- 4.02. When such plants are modified by changes in burner design, heating fuel, fan capacity, drier design, air pollution control equipment, stack parameters or like changes which significantly ~~effects~~ affect the emission

characteristics of the plants then they shall be re-registered with the Commission Director defining those changes within thirty (30) days after being placed in operation.

Section 5. Permits.

~~5.01. -- Plants in existence on the effective date of this regulation will be granted a temporary operating permit. These permits will be valid for as long as the Commission shall designate. -- When control programs are completed that meet the requirements of this regulation, these temporary permits will be replaced with annual operating permits.~~

5.02. 5.01. An operating permit will be granted for plants in existence on the effective date of this regulation ~~will be granted an operating permit~~ provided they meet and maintain the requirements as set forth in this regulation. These permits will be valid for one calendar year and must be renewed annually. Any person plant failing to maintain ~~these~~ the requirements of this regulation shall, at the discretion of the Commission, have their operating permit revoked.

5.03. 5.02. When operating permits are revoked, the Commission Director will consider reissuing permits when such changes as necessary to meet the requirements of this regulation are made by the owner or operator of the plants.

5.03. No person shall construct, modify, or relocate any plant without first obtaining a permit in accordance with the provisions of Section Two of Chapter Sixteen,

Article Twenty, Paragraph 11b of the Code of West Virginia, as amended, and Regulation XIII of this agency.
A new, modified, or relocated plant that meets the requirements of these regulations will also be issued an operating permit by the Director for the same calendar year that the permit to construct, modify or relocate is issued.

~~5.04. Ten (10) days prior to the operation of a new or relocated plant, application must be made to the Commission for a permit. Such application shall be made on forms to be made available by the Commission and in the manner acceptable to the Commission. Plants that meet the requirements of this regulation will be issued an annual permit for operation by the Commission.~~

5.05. 5.04. Plants operating without a permit will be in violation of this regulation.

Section 6. Reports and Testing.

~~6.01. When the Commission has reason to believe that the provisions of this regulation are being violated, the owner of the plant shall permit the Commission to conduct such stack tests as necessary to determine the dust loading in the exhaust gases. The operator will provide all the sampling connections and sampling ports to be located in such manner as the Commission may require, power for test equipment and the required safety equipment such as~~

~~the-necessary-scaffolding,-railings,-ladders,-etc,-to
comply-with-generally-accepted-good-safety-practices.~~

6.01. At such reasonable times as the Director may designate,
the operator of any asphalt hot mix plant may be required to
conduct or have conducted certification stack tests and
other stack tests to determine the particulate matter con-
centration in exhaust gases when the Director has reason to
believe, based on observed violations, that the stack emission
limitation(s) is/are being violated. Such tests shall be con-
ducted in accordance with this agency's TP-5 "Determination of
Particulate Emissions From Stationary Sources", or as the
Director may specify and be filed on forms and in a manner
acceptable to the Director. Such tests shall be conducted
under such reasonable operating conditions as the Director may
specify. The Director, or his duly authorized representative,
may at his option witness or conduct such stack tests. Should
the Director exercise his option to conduct such tests, the
operator will provide all the necessary sampling connec-
tions and sampling ports to be located in such manner as the
Director may require, power for test equipment, and the
required safety equipment such as scaffolding, railings,
and ladders to comply with generally accepted good safety
practices.

6.02. At such time as the Commission Director may request, the operator of the plant will submit data, including but not limited to, on type, sizing, and quantity of the aggregate used and the hours of operation.

6.03. Any stack serving a hot mix asphalt plant shall contain flow straightening devices or a vertical run of sufficient length to establish flow patterns consistent with acceptable stack sampling procedures.

Section 7. Delayed Compliance Order.

7.01. The owner or operator of any plant which is in existence prior to the effective date of this regulation which does not meet the emission limitations of this regulation shall develop and submit to the Commission, within such time as shall be allowed by the Commission, an acceptable control program for the attaining and maintaining of the emission limitations of this regulation. The control program shall be embodied in a consent order as provided in Section Five of Chapter Sixteen, Article Twenty, Paragraph 17 of the Code of West Virginia, as amended.

7.02. In the event that an owner or operator of such a plant fails to submit an acceptable control program within the time allowed, the Commission shall, by final order, determine a reasonable control program for the attaining and maintaining of the emission limitations of this regulation for such plant.

Section-7.

Section 8. Variance.

7.01. ---Where plants in existence prior to the adoption of this regulation do not meet the particulate matter emission limitations noted above, then an acceptable control program to meet the emission limitations shall be developed and offered to the Commission by the person owning the plant causing the emission. -- This control program shall be submitted upon the request of and within such time as shall be fixed by the Commission, and after said program has been approved by the Commission, the owner or operator of the equipment causing the emission shall not be in violation of this regulation so long as the program is observed.

7.02.

8.01. Due to unavoidable malfunctions of equipment, emissions exceeding those provided for in this regulation may be permitted by the Commission for periods not to exceed 2 days upon specific application to the Commission Director. Such application shall be made within 24 hours of the malfunction or within such other time period as the Commission Director may specify. When parts are not available for repair the Commission may grant an extension of time for a period longer than 2 days, but not to exceed 10 days.

Section 9. Circumvention.

No owner or operator subject to the provisions of this regulation shall build, erect, install, or use any article,

machine, equipment or process, the use of which conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

~~Section-8.~~

Section 10. Effective Date.

Regulation Series III (1966) was amended by the Commission on the 23rd day of February, 1979, and shall become effective the 1st day of May, 1979. Regulation Series III (1966), as amended, shall henceforth be cited as Regulation Series III (1979). Regulation Series III (1966) was adopted by the Commission on the 22nd day of August, 1966, and became effective the 1st day of October, 1966.

The foregoing is a true and correct copy of the West Virginia Air Pollution Control Commission Regulation Series III (1979) as adopted on the 23rd day of February, 1979.

Carl G. Beard, II
Secretary
West Virginia Air Pollution
Control Commission