

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

Subject: Regulation IV - To Prevent and Control the Discharge of Air Pollutants  
Into the Open Air Which Causes or Contributes to an Objectionable Odor  
or Odors.

---

INDEX.

Section 0. General.

Section 1. Definitions.

1.01. - "Air Pollutants"

1.02. - "Air Pollution"

1.03. - "Commission"

1.04. - "Person"

1.05. - "Odor"

1.06. - "Objectionable Odor"

1.07. - "Duly Authorized Representative"

Section 2. Objectionable Odor Prohibited.

Section 3. Accidental and Other Infrequent Emissions, Reporting.

Section 4. Notice of Violation.

Section 5. Variance.

Section 6. Exemptions.

Section 7. Effective Date.

# ABSTRACT

Regulation IV (1967) was adopted by the Commission on August 17th, 1967, became effective October 1, 1967, and was filed with the Secretary of State August 28, 1967.

Title 45  
Legislative Rule

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~  
Air Pollution Control Commission

~~Chapter 16-20~~  
Series ~~IV~~ 4  
(1967) e

Subject: ~~Regulation IV~~ - To Prevent and Control the Discharge of Air Pollutants into the Open Air Which Causes or Contributes to an Objectionable Odor or Odors.

---

Section 2 General.

0.01. Scope.

~~Regulation IV~~ <sup>Series 4</sup> is designed to prevent and control the discharge of pollutants into the open air which causes or contributes to an objectionable odor or odors.

0.02. Authority. W.Va. Code § 16-20-5

This regulation is issued under the authority of the West Virginia Code, Chapter 16, Article 20, Section 5. This regulation relates to West Virginia Code, Chapter 16, Article 20, Sections 1 through 13 inclusive. e

0.03. Filing Date.

This regulation was promulgated or last amended on the 17th day of August, 1967, was filed with the office of the Secretary of State the 28th day of August, 1967. Further, this regulation was filed pursuant to West Virginia Code, Chapter 29A, Article 2, Section 5 on the 30th day of December, 1982, in the office of the Secretary of State.

0.04. Effective Date.

The effective date of this regulation is the 1st day of October, 1967.

0.05. Type.

This regulation is a legislative rule as defined in West Virginia Code, Chapter 29A, Article 2. e

Section <sup>2</sup> 1. Definitions.

- 1.01. "Air Pollutants" shall mean solids, liquids, or gases which, if discharged into the air, will result in a statutory air pollution.
- 1.02. "Air Pollution", 'statutory air pollution' shall have the meaning ascribed to it in Chapter Sixteen, Article Twenty, Section Two of the Code of West Virginia, as amended.
- 1.03. "Commission" shall mean the West Virginia Air Pollution Control Commission.
- 1.04. "Person" shall mean any and all persons, natural or artificial, including any municipal, public or private corporation organized or existing under the laws of this or any other state or county, and any firm, partnership, or association of whatever nature.

1.05. "Odor" shall mean a sensation resulting from stimulation of the human sense of smell.

1.06. "Objectionable Odor" - In addition to odors generally recognized as being objectionable, an odor shall be deemed objectionable when in the opinion of a duly authorized representative of the Air Pollution Control Commission, based upon his investigations or his investigations and complaints, such odor is objectionable.

1.07. "Duly Authorized Representative" shall mean the Director or such other agent or employee of the Commission who by virtue of special training and/or experience is qualified to make determinations relative to this regulation.

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

Section <sup>3</sup> 2. Objectionable Odor Prohibited.

2.01. No person shall cause, suffer, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor at any location occupied by the public.

2.02. The Barnebey-Chency Scentometer or any other instrument, device, or technique designated by the Commission may be used as a guide in the enforcement of the regulation and may be used in the determination of the objectionability of an odor.

Section 2.4 Accidental and Other Infrequent Emissions, Reporting.

3.01. Accidental and other infrequent discharges which cause or contribute to objectionable odors will be considered on an individual basis and shall be reported by the person responsible therefor to the Commission in the manner to be prescribed by the Commission.

Section 2.5 Notice of Violation.

- 4.01. No person shall be considered in violation of this regulation unless notified that he is discharging an air pollutant or air pollutants which causes or contributes to an objectionable odor.
- 4.02. Notification as herein required shall be by registered or certified letter of notice sent to the person at his last known address which notice shall set forth the nature of the violation and require such person to submit a control program within such reasonable time as the Commission shall specify.

4.03. The provisions of this section shall not apply to persons operating a control program approved pursuant to Section 5 of this regulation.

Section 5. Variance.

5.01. When a process or operation results in the discharge of an air pollutant or pollutants which causes or contributes to an objectionable odor, an acceptable control program shall be developed and offered to the Commission by the person responsible for the discharge of such air pollutant or pollutants. This control program shall be submitted in the manner prescribed by the Commission and within such time as shall be fixed by the Commission. If such a control program has been approved by the Commission by the issuance of a variance, the person responsible for said discharge shall not be considered to be in violation of this regulation in connection with said discharge so long as the program is observed.

5.02. The Director may permit, under emergency circumstances, the discharge of air pollutants which causes or contributes to an objectionable odor under specific conditions for specific time periods. Any person who desires such a

variance shall make application to the Director in the manner  
to be prescribed by the Director.

Section ~~6~~<sup>7</sup> Exemptions.

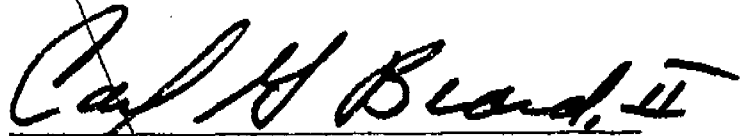
6.01. This regulation shall not apply to the following sources of  
objectionable odor until such time as feasible control methods  
are developed:

- (a) Internal combustion engines.
- (b) Normal and necessary operations associated  
with the production of agricultural products  
grown on the premises or livestock, dogs, cats,  
and poultry grown on the premises.

Section 7. Effective Date.

Regulation IV shall become effective October 1, 1967.

The foregoing is a true and correct copy of the West Virginia  
Air Pollution Control Commission Regulation IV as adopted on the  
17th day of August, 1967.

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





WEST VIRGINIA  
AIR POLLUTION CONTROL COMMISSION

4108 MACCORKLE AVENUE, S. E.  
CHARLESTON, WEST VIRGINIA 25304  
TELEPHONE: 343-4411, EXTENSION 2275

August 28, 1967

The Honorable Robert D. Bailey  
Secretary of State  
State Capitol Building  
Charleston, West Virginia

Dear Mr. Bailey:

Attached are the regulations to prevent and control the discharge of air pollutants into the open air which causes or contributes to an objectionable odor or odors. (Regulation IV)

I certify that these regulations are a true and correct copy of those regulations adopted by the West Virginia Air Pollution Control Commission on the seventeenth day of August, 1967.

Sincerely yours,

Carl G. Beard, II  
Director

CGB/mw  
Attachment

FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 8/28/67

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

Subject: Regulation IV - To Prevent and Control the Discharge of Air Pollutants Into the Open Air which Causes or Contributes to an Objectionable Odor or Odors.

INDEX,

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 8/28/67

Section 1. Definitions.

- 1.01 - "Air Pollutants"
- 1.02 - "Air Pollution"
- 1.03 - "Commission"
- 1.04 - "Person"
- 1.05 - "Odor"
- 1.06 - "Objectionable Odor"
- 1.07 - "Duly Authorized Representative"

Section 2. Objectionable Odor Prohibited.

- 2.01 - Objectionable Odor Prohibited
- 2.02 - Method of Measurement

Section 3. Accidental and Other Infrequent Emissions, Reporting

- 3.01 - Accidental Reporting

Section 4. Notice of Violation.

- 4.01 - Polluter to be Notified
- 4.02 - Method of Notification
- 4.03 - Applicability of Notification

Section 5. Variance.

- 5.01 - Variances for Control Program
- 5.02 - Emergency Variances

WEST VIRGINIA ADMINISTRATIVE REGULATION

Subject: Regulation IV - To Prevent and Control the Discharge of Air  
Pollutants Into the Open Air which Causes or Contributes to  
an Objectionable Odor or Odors.

---

INDEX, continued

Section 6. Exemptions.

6.01 - Sources exempted

Section 7. Effective Date.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
Air Pollution Control Commission

Chapter 16-20  
Series IV  
(1967)

FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 8/28/67

Subject: Regulation IV - To Prevent and Control the Discharge of  
Air Pollutants Into the Open Air which Causes or Contributes  
to an Objectionable Odor or Odors.

---

Section 1. Definitions.

- 1.01. "Air Pollutants" shall mean solids, liquids, or gases which, if discharged into the air, will result in a statutory air pollution.
- 1.02. "Air Pollution", 'statutory air pollution' shall have the meaning ascribed to it in Chapter Sixteen, Article Twenty, Section Two of the Code of West Virginia, as amended.
- 1.03. "Commission" shall mean the West Virginia Air Pollution Control Commission.
- 1.04. "Person" shall mean any and all persons, natural or artificial, including any municipal, public or private corporation organized or existing under the laws of this or any other state or county, and any firm, partnership, or association of whatever nature.
- 1.05. "Odor" shall mean a sensation resulting from stimulation of the human sense of smell.
- 1.06. "Objectionable Odor" - In addition to odors generally recognized as being objectionable, an odor shall be deemed objectionable when in the opinion of a duly authorized representative of the Air Pollution Control Commission, based upon his investigations or his investigations and complaints, such odor is objectionable.

1.07. "Duly Authorized Representative" shall mean the Director or such other agent or employee of the Commission who by virtue of special training and/or experience is qualified to make determinations relative to this regulation.

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

Section 2. Objectionable Odor Prohibited.

2.01. No person shall cause, suffer, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor at any location occupied by the public.

2.02. The Earmebey-Cheney Scantoneter or any other instrument, device, or technique designated by the Commission may be used as a guide in the enforcement of the regulation and may be used in the determination of the objectionability of an odor.

Section 3. Accidental and Other Infrequent Emissions, Reporting.

3.01. Accidental and other infrequent discharges which cause or contribute to objectionable odors will be considered on an individual basis and shall be reported by the person responsible therefor to the Commission in the manner to be prescribed by the Commission.

Section 4. Notice of Violation.

4.01. No person shall be considered in violation of this regulation unless notified that he is discharging an air pollutant or air pollutants which causes or contributes to an objectionable odor.

- 4.02. Notification as herein required shall be by registered or certified letter of notice sent to the person at his last known address which notice shall set forth the nature of the violation and require such person to submit a control program within such reasonable time as the Commission shall specify.
- 4.03. The provisions of this section shall not apply to persons operating a control program approved pursuant to Section 5 of this regulation.

Section 5. Variance.

- 5.01. When a process or operation results in the discharge of an air pollutant or pollutants which causes or contributes to an objectionable odor, an acceptable control program shall be developed and offered to the Commission by the person responsible for the discharge of such air pollutant or pollutants. This control program shall be submitted in the manner prescribed by the Commission and within such time as shall be fixed by the Commission. If such a control program has been approved by the Commission by the issuance of a variance, the person responsible for said discharge shall not be considered to be in violation of this regulation in connection with said discharge so long as the program is observed.
- 5.02. The Director may permit, under emergency circumstances, the discharge of air pollutants which causes or contributes to an objectionable odor under specific conditions for specific time periods. Any person who desires such a variance shall make application to the Director in the manner to be prescribed by the Director.

Section 6. Exemptions.

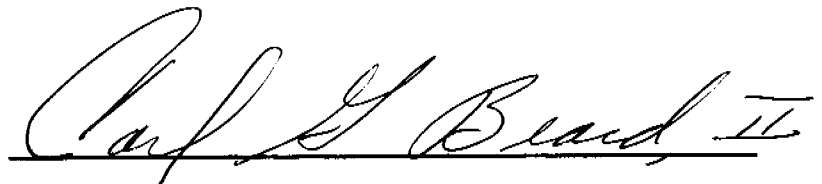
6.01. This regulation shall not apply to the following sources of objectionable odor until such time as feasible control methods are developed:

- (a) Internal combustion engines.
- (b) Normal and necessary operations associated with the production of agricultural products grown on the premises or livestock, dogs, cats, and poultry grown on the premises.

Section 7. Effective Date.

Regulation IV shall become effective October 1, 1967.

The foregoing is a true and correct copy of the West Virginia Air Pollution Control Commission Regulation IV as adopted on the 17th day of August, 1967.



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