

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

Subject: To Prevent and Control Air Pollution from Coal Refuse Disposal Areas.

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ABSTRACT

Regulation I (1965) was promulgated by the Commission on the 15th day of November, 1963, became effective January 1, 1964, and was filed with the Secretary of State January 1, 1965.

*Title 45  
Legislative Rule*

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

~~Chapter 16-20~~  
Series *R 1.*  
(1965)*0*

Subject: ~~Regulation I~~<sup>9</sup> - To Prevent and Control Air Pollution from Coal Refuse Disposal Areas.

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Section *R 1* General.

0.01. Scope.

The purpose of Regulation I is to establish standards for the construction and operation of coal refuse disposal areas and to establish procedures for abatement of air pollution.

0.02. Authority. *W.V. 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.~~

0.03. Filing Date.

This regulation was promulgated on the 15th day of November, 1963, and was filed with the office of the Secretary of State the 1st day of January, 1965. Further, this regulation was filed pursuant to West Virginia Code, Chapter 28A, 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 January, 1964.

0.05. Type.

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

Section <sup>e2</sup> 1. Definitions.

1.01. "Air Pollution"- The term 'statutory air pollution' shall have the meaning ascribed to it in section two of chapter sixteen, article twenty of the code of West Virginia, 1931, as amended.

1.02 "Coal Refuse."- Any combination of carbonaceous waste with rock, shale, culm, boney, slate, clay, and related materials associated with or near a coal seam, which are either brought above ground or otherwise removed from the mine in the process of mining coal, or which are separated from coal during the cleaning or preparation operations, provided, however, that coal refuse shall not mean overburden from strip-mining operations or incombustible materials from mine shafts and mine tunnels.

1.03 "Coal Refuse Pile"- Any deposit of coal refuse on the surface which is intended as a permanent disposal of or long-term storage of such material. Continuous deposits of coal refuse and deposits which are not separated shall be considered a single coal refuse pile.

1.04 "Coal Refuse Disposal Area"- Any area or plot of land which is used as a place for dumping, storage, or disposal of coal refuse. A coal refuse pile must be contained in a single coal refuse disposal area; however, a coal refuse disposal area may contain two (2) or more coal refuse piles if the area is so designated.

1.05 "Operate"- The act of disposing, depositing or dumping of coal refuse upon a coal refuse disposal area or of physically altering the coal refuse disposal area, except by removal of ashes, red dog, or other material from a burned-out coal refuse pile.

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 2.3 Registration.

2.01 Within ninety (90) days after the effective date of this regulation all persons operating coal refuse disposal areas within the State on the effective date of this regulation shall have registered with the Commission on forms to be made available by the Commission, the name of the person, company or corporation operating the disposal area, the address, location, county, ownership (lessee or lessor), the principal officer of the company, or the manager of the mine, and any other such reasonable information as is needed.

2.02 After the effective date of this regulation all persons who intend to establish coal refuse disposal areas shall register with the Commission, on forms made available by the Commission, the name of the person, company or corporation that will operate the disposal area, the address, location, county, ownership (lessee and lessor), the principal officer of the company or the manager of the mine and other such reasonable information as is needed.

2.03 Notification in writing is to be given to the Commission when the operation of a coal refuse area is to be permanently discontinued.

2.04 Notification in writing is to be given to the Commission within thirty (30) days after the ownership or operation of a coal refuse disposal area changes.

2.05 It shall be unlawful for any person to operate a coal refuse disposal area unless such area has been registered.

Section 2.4 Standards.

In order to prevent and control air pollution from coal refuse disposal areas, the operation of coal refuse disposal areas shall be conducted in accordance with the standards established by this Section.

3.01 Coal refuse is not to be deposited on any coal refuse disposal area unless the coal refuse is deposited in such a manner as to minimize the possibility of ignition of the coal refuse.

3.02 Coal refuse disposal areas shall not be so located with respect to mine openings, tipples, or other mine buildings, unprotected coal outcrops or steam lines, that these external factors will contribute to the ignition of the coal refuse on such coal refuse disposal areas.

3.03 Vegetation and combustible materials shall not be left on the ground at the site where a coal refuse pile is to be established, unless it is rendered inert before coal refuse is deposited on such site.

3.04 Coal refuse shall not be dumped or deposited on a coal refuse pile known to be burning, except for the purpose of controlling the fire or where the additional coal refuse will not tend to ignite or where such dumping will not result in statutory air pollution.

3.05 Materials with low ignition points used in the production or preparation of coal, including but not limited to wood, brattice cloth, waste paper, rags, oil and grease, shall not be deposited on any coal refuse disposal area or in such proximity as will reasonably contribute to the ignition of a coal refuse disposal area.

3.06 Garbage, trash, household refuse, and like materials shall not be deposited on or near any coal refuse disposal area.

3.07 The deliberate ignition of a coal refuse disposal area or the ignition of any materials on such an area by any person or persons is prohibited.

Section <sup>5</sup> A. Burning Coal Refuse Disposal Areas.

Each burning coal refuse disposal area which allegedly causes air pollution shall be investigated by the Commission.

4.01 Each coal refuse disposal area which causes air pollution shall be considered on an individual basis by the Commission. Consistent with the declaration of policy and purpose set forth in section one of Chapter sixteen, article twenty of the code of West Virginia, 1931, as amended, as well as the established facts and circumstances of the particular case, the Commission shall determine and may order after a proper hearing the effectuation of those air pollution control measures which are adequate for each such coal refuse disposal area.


4.02 With respect to all burning coal refuse disposal areas, the person responsible for such coal refuse disposal areas or the land on which such coal refuse disposal areas are located shall use due diligence to control air pollution from such coal refuse disposal areas. Consistent with the declaration of policy and purpose set forth in section one of chapter sixteen, article twenty of the code of West Virginia, 1931, as amended, the Commission shall determine what constitutes due diligence with respect to each such burning coal refuse disposal area. When a study of any burning coal refuse disposal area by the Commission establishes that air pollution exists or may be created, the person responsible for such coal refuse disposal area or the land

on which such coal refuse disposal area is located shall submit to the Commission a report setting forth satisfactory methods and procedures to eliminate, prevent, or reduce such air pollution. The report shall be submitted within such time as the Commission shall specify. The report for the elimination, prevention or reduction of air pollution shall contain sufficient information, including completion dates, to establish that such program can be executed with due diligence. If such report is not submitted as requested or if the Commission determines that the methods and procedures set forth in such report are not adequate to reasonably control such air pollution, then a hearing will be held pursuant to the procedures established by Code 16-20-6.

Section 5. Effective Date.

Regulation I shall become effective on the 1st day of January, 1964.

The foregoing is a true and correct copy of the West Virginia Air Pollution Control Commission Regulation I as adopted on the 15th day of November, 1963.



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



WEST VIRGINIA  
AIR POLLUTION CONTROL COMMISSION  
1724 WASHINGTON STREET, E.  
CHARLESTON 1

FILED IN THE OFFICE OF  
JOE F. BURDETT  
SECRETARY OF STATE  
T.M.S. DATE 1/1/65

January 1, 1965

The Honorable Joe F. Burdette  
Secretary of State  
State Capitol Building  
Charleston, West Virginia

Dear Mr. Burdette:

Attached are the coal refuse disposal regulations for the control of air pollution from burning coal refuse for your files. 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 fifteenth of November, 1963.

Sincerely yours,

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

CGB/mw  
Attachment

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
Air Pollution Control Commission

Chapter 16-20  
Series I  
(1965)

FILED IN THE OFFICE OF  
JOE F. BURDETT  
SECRETARY OF STATE  
THIS DATE 1/1/65

Subject: To Prevent and Control Air Pollution from Coal Refuse  
Disposal Areas.

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Section 1. Definitions.

1.01. "Air Pollution"- The term 'statutory air pollution' shall have the meaning ascribed to it in section two of chapter sixteen, article twenty of the code of West Virginia, 1931, as amended.

1.02 "Coal Refuse."- Any combination of carbonaceous waste with rock, shale, culm, boney, slate, clay, and related materials associated with or near a coal seam, which are either brought above ground or otherwise removed from the mine in the process of mining coal, or which are separated from coal during the cleaning or preparation operations, provided, however, that coal refuse shall not mean overburden from strip-mining operations or incombustible materials from mine shafts and mine tunnels.

1.03 "Coal Refuse Pile"- Any deposit of coal refuse on the surface which is intended as a permanent disposal of or long-term storage of such material. Continuous deposits of coal refuse and deposits which are not separated shall be considered a single coal refuse pile.

1.04 "Coal Refuse Disposal Area"- Any area or plot of land which is used as a place for dumping, storage, or disposal of coal refuse. A coal refuse pile must be contained in a single coal refuse disposal area; however, a coal refuse disposal area may contain two (2) or more coal refuse piles if the area is so designated.

1.05 "Operate"- The act of disposing, depositing or dumping of coal refuse upon a coal refuse disposal area or of physically altering the coal refuse disposal area, except by removal of ashes, red dog, or other material from a burned-out coal refuse pile.

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. Registration.

2.01 Within ninety (90) days after the effective date of this regulation all persons operating coal refuse disposal areas within the State on the effective date of this regulation shall have registered with the Commission on forms to be made available by the Commission, the name of the person, company or corporation operating the disposal area, the address, location, county, ownership (lessee or lessor), the principal officer of the company, or the manager of the mine, and any other such reasonable information as is needed.

2.02 After the effective date of this regulation all persons who intend to establish coal refuse disposal areas shall register with the Commission, on forms made available by the Commission, the name of the person, company or corporation that will operate the disposal area, the address, location, county, ownership (lessee and lessor), the principal officer of the company or the manager of the mine and other such reasonable information as is needed.

2.03 Notification in writing is to be given to the Commission when the operation of a coal refuse area is to be permanently discontinued.

2.04 Notification in writing is to be given to the Commission within thirty (30) days after the ownership or operation of a coal refuse disposal area changes.

2.05 It shall be unlawful for any person to operate a coal refuse disposal area unless such area has been registered.

Section 3. Standards.

In order to prevent and control air pollution from coal refuse disposal areas, the operation of coal refuse disposal areas shall be conducted in accordance with the standards established by this Section.

3.01 Coal refuse is not to be deposited on any coal refuse disposal area unless the coal refuse is deposited in such a manner as to minimize the possibility of ignition of the coal refuse.

3.02 Coal refuse disposal areas shall not be so located with respect to mine openings, tipples, or other mine buildings, unprotected coal outcrops or steam lines, that these external factors will contribute to the ignition of the coal refuse on such coal refuse disposal areas.

3.03 Vegetation and combustible materials shall not be left on the ground at the site where a coal refuse pile is to be established, unless it is rendered inert before coal refuse is deposited on such site.

3.04 Coal refuse shall not be dumped or deposited on a coal refuse pile known to be burning, except for the purpose of controlling the fire or where the additional coal refuse will not tend to ignite or where such dumping will not result in statutory air pollution.

3.05 Materials with low ignition points used in the production or preparation of coal, including but not limited to wood, brattice cloth, waste paper, rags, oil and grease, shall not be deposited on any coal refuse disposal area or in such proximity as will reasonably contribute to the ignition of a coal refuse disposal area.

3.06 Garbage, trash, household refuse, and like materials shall not be deposited on or near any coal refuse disposal area.

3.07 The deliberate ignition of a coal refuse disposal area or the ignition of any materials on such an area by any person or persons is prohibited.

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Each burning coal refuse disposal area which allegedly causes air pollution shall be investigated by the Commission.

4.01 Each coal refuse disposal area which causes air pollution shall be considered on an individual basis by the Commission. Consistent with the declaration of policy and purpose set forth in section one of Chapter sixteen, article twenty of the code of West Virginia, 1931, as amended, as well as the established facts and circumstances of the particular case, the Commission shall determine and may order after a proper hearing the effectuation of those air pollution control measures which are adequate for each such coal refuse disposal area.

4.02 With respect to all burning coal refuse disposal areas, the person responsible for such coal refuse disposal areas or the land on which such coal refuse disposal areas are located shall use due diligence to control air pollution from such coal refuse disposal areas. Consistent with the declaration of policy and purpose set forth in section one of chapter sixteen, article twenty of the code of

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3.01-3.07 - Manner in Which Coal Refuse is to be Deposited

Section 4. Burning Coal Refuse Disposal Areas.

4.01 - Basis to Consider Burning Coal Refuse.

4.02 - Reporting.

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FILED IN THE OFFICE OF  
JOE F. BURDETT  
SECRETARY OF STATE  
THIS DATE 1/1/65

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