

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

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Refuse.

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ABSTRACT

The amendments to Regulation VI (1969) were adopted by the Commission on the 23rd day of February, 1979. Regulation VI (1969), as amended, was retitled Regulation VI (1980) and became effective April 8, 1980, and was filed with the Secretary of State March 30, 1979, and superseded Regulation VI (1969). Regulation VI (1969) was adopted by the West Virginia Air Pollution Control Commission on the 22nd day of July, 1969, and became effective September 1, 1969 and was filed with the Secretary of State July 30, 1969.

Title 45
Legislative Rule

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

~~Chapter 16-20~~
Series ~~VI~~ 6
(1980)

Subject: ~~Regulation VI~~ - To Prevent and Control Air Pollution From Combustion of Refuse.

Section 1. General.

1.01. Scope, Intent, and Purpose.

(a) The purpose of ~~Regulation VI~~ ^{Series 6} is to prevent and control air pollution from combustion of refuse. Neither compliance with the provisions of this regulation nor the absence of specific language to cover particular situations constitutes approval or implies consent or condonement of any emission which is released in any locality in such manner or amount as to cause or contribute to undesirable levels of air contaminants. Neither does it exempt nor excuse anyone from complying with other applicable laws, ordinances, regulations or orders of governmental entities having jurisdiction.

(b) All persons engaged in any form of combustion of refuse shall give careful consideration to the effects of the resultant emissions on the air quality of the area(s) affected by such burning. Important considerations include but are not limited to the location and time of burning, the type of material being burned and the potential emissions and the prevailing meteorological conditions. Persons failing to give due consideration to these factors will be in violation of this regulation.

(c) It is the intent of the Commission that all incorporated areas and other local governmental entities prohibit open burning and develop alternative methods for disposal of waste material. If such action is not taken in any air basin, air quality control region or other such areas as the Commission may designate, then such action may be taken by the Commission to insure compliance with air quality standards.

1.02. 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.

1.03. Filing Date.

This regulation was promulgated or last amended on the 23rd day of February, 1979, was filed with the office of the Secretary of State the 30th day of March, 1979. 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.

1.04. Effective Date.

The effective date of this regulation is the 8th day of April, 1980.

1.05. Type.

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

Section 2. Definitions.

- 2.01. "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.
- 2.02. "Commission" shall mean the West Virginia Air Pollution Control Commission.
- 2.03. "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.
- 2.04. "Particulate Matter" shall mean any material, except uncombined water, that exists in a finely divided form as a liquid or solid.

- 2.05. "Smoke" shall mean small gasborne and airborne particles emitted as the result of the combustion of refuse in sufficient numbers to be visible.
- 2.06. "Ringelmann Smoke Chart" shall mean the Ringelmann's Scale for Grading the Density of Smoke, published by the U. S. Bureau of Mines, or any chart, recorder, indicator, device or method which is a standardized method for the measurement of smoke density and is approved by the Commission as the equivalent of said Ringelmann Chart.
- 2.07. "Air Pollution Control Equipment" shall mean any equipment used for collecting or converting gasborne particulate or gaseous materials for the purpose of preventing or reducing emission of these materials into the open air.
- 2.08. "Incineration" shall mean the destruction of combustible refuse by burning in a furnace designed for that purpose. For the purposes of this Regulation, the destruction of any combustible liquid or gaseous material by burning in a flare/flare stack shall be considered incineration.
- 2.09. "Incinerator" shall mean any device used to accomplish incineration.
- 2.10. "Flare", 'flare stack' shall mean and include a combustion source normally comprised of but not limited to a length of stack or pipe which has an attached

burner mechanism designed to destroy liquid or gaseous material with an open or semi-enclosed flame.

- 2.11. "Open Burning" shall mean the combustion of refuse whereby the gaseous products of combustion are not conveyed through man-made means from one point to another and are discharged directly to the open air.
- 2.12. "Refuse" shall mean the useless and/or unwanted or discarded solid, liquid and/or gaseous waste materials resulting from community, commercial, industrial or citizen activities.
- 2.13. "Construction and Demolition Wastes" shall mean combustible waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures.
- 2.14. "Incinerator Capacity" shall be the manufacturer's or designer's guaranteed maximum charging rate or such other rate as may be determined by the Director in accordance with good engineering practices. In case of conflict the determination by the Director shall govern. For the purposes of this Regulation the total of the capacities of all furnaces within one system shall be considered as the "incinerator capacity".
- 2.15. "Director" shall mean the director of the West Virginia Air Pollution Control Commission.

- 2.16. "Pathological Waste Incinerator" shall mean an incinerator used to dispose of animal and/or human tissue, bandages, medical wastes, and medical laboratory wastes.
- 2.17. "Industrial Waste Incinerator" shall mean an incinerator which is used to incinerate gaseous, liquid, semi-liquid and/or solid by-product waste from industrial sources.
- 2.18. "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.
- 2.19. "Sewage Sludge Incinerator" shall mean an incinerator which is used to incinerate the sludge produced by municipal or industrial sewage treatment plants.

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 3. Open Burning Prohibited.

3.01. General Provisions

The open burning of refuse for the purpose of volume reduction, elimination or product recovery by any person, firm, corporation, association or

public agency is prohibited except for the following exemptions:

(a) Vegetation grown on the premises of a home or farm, provided that there is compliance with the provisions of Sub-Section ^{1.2} ~~1.02~~, and the health, safety, comfort and property of persons are protected from the effects of such burning.

(b) Fires set for the purpose of bona fide instruction and training of public and industrial employees and members of volunteer fire departments in the methods of fighting fires, provided that approval to conduct such burning is received from the Director or his duly authorized representative.

(c) Open burning of construction and demolition wastes, provided that all the following conditions are met:

(1) There is no practical alternate method for the disposal of the material to be burned;

(2) The health, safety, comfort and property of persons are protected from the effects of such burning;

(3) Such burning shall not be conducted for salvage purposes; and,

(4) In non-rural areas approval to conduct such burning is received from the Director or his duly authorized representative.

(d) Backyard open burning for the reduction of refuse produced on the premises as long as the amount does not exceed that weight normally produced by the everyday living habits of one (1) family, until such families are serviced by a municipal or private refuse collection service.

3.02. The exemptions listed in Sub-Section ~~3.01~~^{3.1} are subject to the following stipulation:

Upon notification by the Director, no person shall cause, suffer, allow or permit any form of open burning during existing or predicted periods of atmospheric stagnation. Notification shall be made by such means as the Director may deem necessary and feasible.

Section 4. Emission Standards for Incinerators and Incineration.

4.01. No person shall cause, suffer, allow or permit particulate matter to be discharged from any incinerator into the open air in excess of the quantity determined by use of the following formula:

Emissions (lb/hr) = F x Incinerator Capacity (tons/hr)

where the Factor, F, is as indicated in Table I below:

Table I: Factor, F, for Determining Maximum Allowable
Particulate Emissions

Incinerator Capacity	F Factor
A. Less than 15,000 lbs/hr	5.43
B. 15,000 lbs/hr or greater	2.72

4.02. After the effective date of this regulation, in the Counties of Brooke, Hancock, Ohio, Marshall and Kanawha; and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), the City of Fairmont and those portions of Union and Winfield Magisterial Districts west of I-79 (Marion County), no person shall cause, suffer, allow or permit the operation of any incinerator during the period starting one (1) hour before sunset and extending until two (2) hours after sunrise.

This Sub-Section shall not apply to the operation of pathological, industrial, municipal or sewage sludge incinerators.

4.03. Emission of Visible Particulate Matter.

No person shall cause, suffer, allow or permit emission of smoke into the atmosphere from any incinerator which is as dark or darker in shade or appearance than that designated as No. 1 on the Ringelmann Smoke Chart or the equivalent opacity of this Ringelmann number.

4.04. The provisions of Sub-Section ^{4.3}~~4.03~~ shall not apply to smoke, the shade or appearance of which is less than No. 2 on the Ringelmann Smoke Chart or the equivalent opacity of this Ringelmann number, for a period or periods aggregating no more than eight (8) minutes per start-up, or six (6) minutes in any 60-minute period for stoking operations.

4.05. No person shall cause, suffer, allow or permit the emission of particles of unburned or partially burned refuse or ash from any incinerator which are large enough to be individually distinguished in the open air.

4.06. Incinerators, including all associated equipment and grounds, shall be designed, operated and maintained so as to prevent the emission of objectionable odors.

4.07. Incineration of Residues and Hazardous Materials.

Persons responsible for the incineration of hazardous materials such as insecticides, empty insecticide containers, toxic materials, certain chemical residues, explosives, used bandages and other medical wastes, pathological wastes, human and animal remains and other

like materials shall give the utmost care and consideration to the potential harmful effects of the emissions resulting from such activities. Evaluation of these facilities as to adequacy, efficiency and emission potential will be made on an individual basis by the Commission, working in conjunction with other appropriate governmental agencies.

Section 5. Registration.

Within thirty (30) days after the effective date of this regulation, all persons owning and/or operating incinerators within the state shall have registered with the Commission on forms made available by the 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 such other reasonable information as the Director may require including but not limited to make, model, capacity, operating temperature, fuel used, stack parameters and description of air pollution control equipment.

Section 6. Permits.

No person shall construct, modify or relocate any incinerator 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. *Series 13*

Section 7. Reports and Testing.

7.01. At such reasonable times as the Director may designate, the operator of any incinerator shall be required to conduct or have conducted stack tests to determine the particulate matter loading in exhaust gases when the Director has reason to believe, based on observed violations, that the stack emission limitation is being violated or for compliance testing. Such tests shall be conducted in such manner as the Director may specify and be filed on forms and in a manner acceptable to the Director. 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 connections 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.

7.02. The Director, or his duly authorized representative, may conduct such other tests as he may deem necessary to evaluate air pollution emissions other than those noted above.

Section 8. Variances.

8.01. If it can be demonstrated to the Commission that the disposal of certain materials by any method other than burning leads to ground water contamination, then the person responsible for the disposal of such materials shall submit to the Commission within sixty (60) days a program leading to the construction of a suitable incinerator. If such program is accepted by the Commission, the person shall not be in violation as long as the program is observed.

8.02. Due to unavoidable malfunction of equipment, emissions exceeding those provided for in this regulation may be permitted by the Director for periods not to exceed five (5) days upon specific application to the Director. Such application shall be made within twenty-four (24) hours of the malfunction. In cases of major equipment failure, additional time periods may be granted by the Commission provided a corrective program has been submitted by the owner or operator and approved by the Commission.

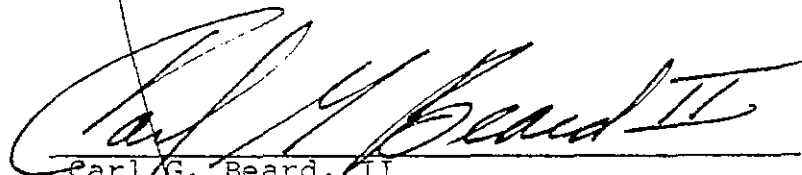
Section 9. Delayed Compliance Order.

- 9.01. The owner or operator of any incinerator in existence prior to the effective date of this regulation which does not meet the emission limitations as specified in Section ~~4.1~~ ^{4.1} ~~4.01~~ of this regulation shall develop and submit to the Commission, within such time as shall be allowed by the Commission, an acceptable compliance program for the attaining and maintaining of the emission limitations of this regulation as per Section ~~4.01~~ ^{4.1}. The compliance program shall be embodied in a consent order as provided in Chapter 16, Article 20, Section 5(17) of the Code of West Virginia, as amended. Any owner or operator who is currently subject to a consent order that provides for compliance after the effective date of this regulation shall be exempt from the requirements of this section.
- 9.02. In the event an owner or operator of an incinerator subject to this section 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.

Section 10. Effective Date.

Regulation Series VI (1969) was amended by the Commission on the 23rd day of February, 1979, and shall become effective the 8th day of April, 1980. Regulation Series VI (1969), as amended, shall henceforth be cited as Regulation Series VI (1980). Regulation Series VI (1969) was adopted by the Commission on the 22nd day of July, 1969, and became effective September 1, 1969.

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



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