



RECEIVED

DEC 15 P 4: 46

STATE OF WEST VIRGINIA  
OFFICE OF THE SECRETARY OF STATE  
CHARLESTON 25305

ECN. OF STATE

A. JAMES MANCHIN  
SECRETARY OF STATE

STATE REGISTER FILING

I, Carl G. Beard, II, Secretary,  
Title or Position

Air Pollution Control Commission, hereby submit to record in  
Department or Division

the State Register on 8 1/2 x 11" paper two (2) copies of

- proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- proposed rules and regulations superseding rules and regulations already on file;
- notice of hearing;
- findings and determinations;
- rules and regulations; or
- other - specify ( )

This filing pertains to

Chapter 16  
 Article 20  
 Series XIX  
 Section \_\_\_\_\_  
 Page No. \_\_\_\_\_

- proposed rules and regulations are required to go to Legislative Rule Making Committee;
- proposed rules and regulations are excluded from Legislative Rule Making Committee;

December 15, 1978  
Date Submitted

[Signature]  
Signature of Person Authorizing  
this Filing - Carl G. Beard, II

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
AIR POLLUTION CONTROL COMMISSION

PROPOSED REGULATION

REGULATION XIX

"TO PREVENT AND CONTROL AIR POLLUTION FROM  
THE EMISSION OF VOLATILE ORGANIC COMPOUNDS  
FROM THE MANUFACTURING AND USE OF  
CUTBACK ASPHALT"

*Proposed Regulation*

A public hearing will be held concerning proposed additions to West Virginia's Implementation Plan relative to the attainment and maintenance of Ambient Air Quality Standards for Photochemical Oxidants (Ozone) on Tuesday, January 16, 1979, at 9:15 a.m. at the Charleston Civic Center "North Gallery" located on Reynolds Street, Charleston, Kanawha County, West Virginia. Following the hearing on proposed additions to the Implementation Plan, public hearings will be held, in consecutive order, concerning proposed Regulations XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, and XXX.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
Air Pollution Control Commission

Chapter 16-20  
Series XIX  
(1979)

Subject: Regulation XIX - To Prevent and Control Air Pollution From  
the Emission of Volatile Organic Compounds From the  
Manufacturing and Use of Cutback Asphalt.

---

Section 1. Intent and Purpose.

It is the intent of the Commission that all persons engaged in  
the manufacture and use of cutback asphalts control the emission  
of volatile organic compounds through the application of reasonably  
available control technology.

Section 2. Area Affected.

This Regulation applies to sources located in West Virginia  
Air Quality Control Region IV (Putnam County, Kanawha County  
and Valley Magisterial District of Fayette County).

Section 3. Definitions.

- 3.01. "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.
- 3.02. "Approved" shall mean approved by the designated official of the  
West Virginia Air Pollution Control Commission.

- 3.03. "Asphalt" shall mean a dark-brown to black cementitious material (solid, semisolid, or liquid in consistency) in which the predominating constituents are bitumens which occur in nature as such or which are obtained as residue in refining petroleum.
- 3.04. "Commission" shall mean the West Virginia Air Pollution Control Commission.
- 3.05. "Cutback Asphalt" shall mean asphalt cement which has been liquefied by blending with petroleum solvents (diluent). Upon exposure to atmospheric conditions the diluents evaporate, leaving the asphalt cement to perform its function.
- 3.06. "Day" shall mean a 24-hour period beginning at midnight.
- 3.07. "Director" shall mean the director of the West Virginia Air Pollution Control Commission.
- 3.08. "Emission" shall mean the release or discharge, whether directly or indirectly, of any air pollutant into the ambient air from any source.
- 3.09. "Emulsified Asphalt" shall mean an emulsion of asphalt cement and water which contains a small amount of an emulsifying agent; a heterogeneous system containing two normally immiscible phases (asphalt and water) in which the water forms the continuous phase of the emulsion, and minute globules of asphalt form the discontinued phase.

3.10. "Owner or operator" shall mean any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

3.11. "Penetrating Prime Coat" shall mean an application of low-viscosity liquid asphalt to an absorbent surface. It is used to prepare an untreated base for an asphalt surface. The prime penetrates the base and plugs the voids, hardens the top, and helps bind it to the overlying asphalt course. It also reduces the necessity of maintaining an untreated base course prior to placing the asphalt pavement.

3.12. "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 country, and any firm, partnership, or association of whatever nature.

3.13. "Reasonably available control technology" (also denoted as RACT) shall mean the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. It may require technology that has been applied to similar, but not necessarily identical, source categories.

3.14. "Standard conditions" shall mean a temperature of 20°C (68°F) and pressure of 760 millimeters of mercury (29.92 inches of mercury).

3.15. "Volatile organic compound" (also denoted as VOC) shall mean any compound of carbon that has a vapor pressure greater than 0.1 millimeters of mercury at standard conditions excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

Section 4. Control and Prevention of Emissions

(a) No person may cause, allow or permit the manufacture, mixing, storage, use or application of cutback asphalts without approval of the Director as provided in paragraph (b) of this Sub-Section.

(b) The Director may approve the manufacture, mixing, storage, use or application of cutback asphalts where:

- (1) long-life stockpile storage is necessary; or,
- (2) the use or application at ambient temperatures less than 10<sup>0</sup>C (50<sup>0</sup>F) is necessary; or,
- (3) the cutback asphalt is to be used solely as a penetrating prime coat.

Section 5. Registration.

All persons engaged in the manufacture, mixing, storage, use or application of cutback asphalts subject to this Regulation on the effective date of this Regulation, shall register such operations with the Commission within thirty (30) days after

said effective date. The information required for registration shall be determined and provided in the manner specified by the Director.

Section 6. Permits.

After the effective date of this Regulation no person shall commence operations involving the manufacture, mixing, storage, use or application of cutback asphalts subject to this Regulation without first obtaining a permit for such operations. Applications for permits shall be made upon forms available from the Director and shall be filed no less than thirty (30) days prior to the commencement of such operations. These forms shall include such information as in the judgment of the Director will enable him to determine whether such operations will be so designed as to operate in conformance with the provisions of this Regulation and the Code of West Virginia, and will not cause or contribute to the violation of Air Quality Standards. The Director shall issue or deny such permit within thirty (30) days of the receipt of an application.

Section 7. Reports.

The Commission may publish, and from time to time revise, detailed reporting instructions implementing the provisions of this Regulation.

Section 8. Compliance Program and Schedules.

- 8.01. In the event that an operation involving the manufacture, mixing, storage, use or application of cutback asphalts subject to this Regulation and in existence prior to the adoption of this Regulation does not meet the provisions of Section 4, an acceptable program to fully comply with the Regulation shall be developed and offered to the Commission by the person responsible for the operation. This program shall be submitted upon the request of, and within such time as shall be fixed by the Commission. Once this program has been approved by the Commission, the owner and/or operator of such operation shall not be in violation of this Regulation so long as the approved or amended program is observed.
- 8.02. In the event that an owner or operator of such an operation fails to submit a program or an acceptable program and schedule, the Commission shall, by order, determine the compliance program and schedule.

Section 9. Effective Date.

Regulation XIX shall become effective \_\_\_\_\_, 19\_\_\_\_.