

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: WV DEP - Division of Air Quality TITLE NUMBER: 45

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 33

TITLE OF RULE BEING AMENDED: "Acid Rain Provisions and Permits"

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

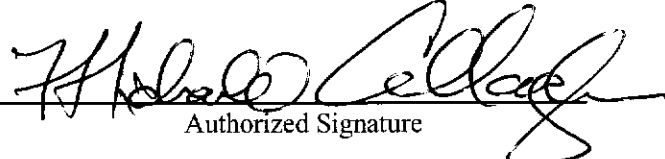
TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) H.B. 4163

SECTION 64-3-1(f), PASSED ON March 9, 2002

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2002


Authorized Signature

SCANNED

TITLE 45
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF AIR QUALITY

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SERIES 33
ACID RAIN PROVISIONS AND PERMITS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§45-33-1. General.

1.1. Scope. -- This rule establishes general provisions and the operating permit program requirements for affected sources and affected units under the Acid Rain Program promulgated by the United States Environmental Protection Agency under Title IV of the Clean Air Act, as amended. It is the intent of the Secretary to adopt these standards by reference. It is also the intent of the Secretary to adopt associated reference methods, performance specifications and other test methods which are appended to these standards.

1.2. Authority. -- W. Va. Code §§22-5-1 et seq.

1.3. Filing Date. -- April 16, 2002.

1.4. Effective Date. -- July 1, 2002.

1.5. Incorporation by Reference. -- Federal Counterpart Regulation. - The Secretary has determined that a federal counterpart regulation exists, and in accordance with the Secretary's recommendation this rule incorporates by reference the following provisions: 40 CFR Part 72, "Permits Regulation"; 40 CFR Part 74, "Sulfur Dioxide Opt-Ins"; 40 CFR Part 75, "Continuous Emissions Monitoring"; 40 CFR Part 76, "Nitrogen Oxides Reduction Program"; and 40 CFR Part 77, "Excess Emissions"; effective July 1, 2000, as amended by the Federal Register through June 13, 2001.

1.6. Former Rules. -- This legislative rule amends 45CSR33 "Acid Rain Provisions and Permits" which was filed May 19, 2000, and which became effective June 1, 2000.

§45-33-2. Requirements.

2.1. No person may construct, modify, or operate or cause to be constructed, modified, or operated an Acid Rain source which results or will result in a violation of this rule.

§45-33-3. Definitions.

3.1. "Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

3.2. "Permitting Authority" shall mean the West Virginia Department of Environmental Protection.

3.3. "Secretary" shall mean the secretary of the department of environmental protection or such other person to whom the secretary has delegated authority or duties pursuant to W. Va. Code §§22-1-6 or 22-1-8.

§45-33-4. Adoption of Standards.

4.1. The Secretary hereby adopts and incorporates by reference the following provisions of the United States Environmental Protection Agency Acid Rain Program effective July 1, 2000, as amended by the Federal Register through June 13, 2001: 40 CFR Part 72, "Permits Regulation", including all Subparts and Appendices; 40 CFR Part 74, "Sulfur Dioxide Opt-Ins", including all Subparts; 40 CFR Part 75, "Continuous Emissions Monitoring", including all Subparts and Appendices; 40 CFR Part 76, "Nitrogen Oxides Emissions Reduction Program", including all Appendices; and 40 CFR Part 77, "Excess Emissions". These provisions are adopted for the purposes of implementing an acid

rain program that meets the requirements of Title IV of the federal Clean Air Act, as amended.

§45-33-5. Inconsistency Between Rules.

5.1. The provisions of this rule shall not be construed as exempting persons subject to this rule from compliance with any other provisions of the Clean Air Act, including the provisions of Title I of the Clean Air Act relating to applicable National Ambient Air Quality Standards, the State Implementation Plan, or any other rules of the West Virginia Department of Environmental Protection, except as expressly provided under Title IV of the Clean Air Act; provided however, that in the event of any inconsistency between the provisions of this rule and any provisions of 45CSR30, the provisions of this rule shall take precedence and shall govern the issuance, denial, revision, reopening, renewal, and appeal of the Acid Rain provision of an operating permit.