

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

FORM #6

Do Not Mark In This Box

FILED

MAY 19 9 34 AM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Division of Environmental Protection, Office 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 NEW 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) HB 4223

SECTION 64-3-1(m) , PASSED ON March 11, 2000

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: June 1, 2000



Authorized Signature



Executive Office
#10 McJunkin Road
Nitro, WV 25143-2506
Telephone No: (304)759-0575
Fax No: (304)759-0526



West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael C. Castle
Commissioner

May 17, 2000

Ms. Judy Cooper
Director, Administrative Law
Division
Secretary of State's Office
Capitol Complex
Charleston, WV 25305

RE: 45CSR33 - "Acid Rain Provisions and Permits"

Dear Ms. Cooper:

This letter will serve as my approval to file the above-referenced rule with your Office and the Legislative Rule-Making Review Committee as "Notice of Final Filing and Adoption of a Legislative Rule."

Your cooperation in the above request is very much appreciated. If you should have any questions or require additional information, please call Carrie Chambers in my office at 759-0515.

Sincerely,

Michael C. Castle
Commissioner

MCC:cc

cc: Karen Watson
Carrie Chambers

LEGISLATIVE HISTORY ABSTRACT

45CSR33

Acid Rain Provisions and Permits

Bureau of Environment
Division of Environmental Protection
Office of Air Quality
House Bill 4223 Section 64-3-1(m)

6/16/99 Filed Notice of Public Hearing with Secretary of State.

6/16/99 Initial Filing with Legislative Rule-Making Review Committee.

7/14/99 Filed Notice of Extension of Public Comment Period.

7/19/99 Held Public Hearing.

7/28/99 End of Public Comment Period.

8/5/99 Agency Approved Rule Filed with Secretary of State and Legislative Rule-Making Review Committee.

10/19/99 Rule Approved by Legislative Rule-Making Review Committee.

3/11/00 Passed the West Virginia Legislature.

4/3/00 Signed by the Governor.

5/19/00 Rule Final Filed with Secretary of State.

6/1/00 Effective Date of Rule.

FILED

MAY 19 9 35 AM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

45CSR33
TITLE 45
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY
SERIES 33
ACID RAIN PROVISIONS AND PERMITS

§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 Director to adopt these standards by reference. It is also the intent of the Director 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. -- May 19, 2000

1.4. Effective Date. -- June 1, 2000

1.5. Incorporation by Reference. -- Federal Counterpart Regulation. - The Director has determined that a federal counterpart regulation exists, and in accordance with the Director'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, 1998, as amended by the Federal Register through June 1, 1999.

1.6. Former Rules. -- This legislative rule amends 45CSR33 "Acid Rain Provisions and Permits" which was filed May 20, 1999, and which became effective June 1, 1999.

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

3.3. "Permitting Authority" shall mean the West Virginia Division of Environmental Protection.

§45-33-4. Adoption of Standards.

4.1. The Director hereby adopts and incorporates by reference the following provisions of the United States Environmental Protection Agency Acid Rain Program effective July 1, 1998, as amended by the Federal Register through June 1, 1999: 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 Division 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.