

40 C.F.R. § 72.72

Criteria for State operating permit program.

A State operating permit program (including a State Acid Rain program) shall meet the following criteria. Any aspect of a State operating permits program or any implementation of a State operating permit program that fails to meet these criteria shall be grounds for nonacceptance or withdrawal of all or part of the Acid Rain portion of an approved State operating permit program by the Administrator or for disapproval or withdrawal of approval of the State operating permit program by the Administrator.

(a) *Non-Interference with Acid Rain Program.* The State operating permit program shall not include or implement any measures that would interfere with the Acid Rain Program. In particular, the State program shall not restrict or interfere with allowance trading and shall not interfere with the Administrator's decision on an offset plan. Aspects and implementation of the State program that would constitute interference with the Acid Rain Program, and are thus prohibited, include but are not limited to:

- (1) Prohibitions, inconsistent with the Acid Rain Program, on the acquisition or transfer of allowances by an affected unit or affected source under the jurisdiction of the State permitting authority;
- (2) Restrictions, inconsistent with the Acid Rain Program, on an affected unit's or an affected source's ability to sell or otherwise obligate its allowances;
- (3) Requirements that an affected unit or affected source maintain a balance of allowances in excess of the level determined to be prudent by any utility regulatory authority with jurisdiction over the owners of the affected unit or affected source;
- (4) Failing to notify the Administrator of any State administrative or judicial appeals of, or decisions covering, Acid Rain permit provisions that might affect Acid Rain Program requirements;
- (5) Issuing an order, inconsistent with the Acid Rain Program, interpreting Acid Rain Program requirements as not applicable to an affected source or an affected unit in whole or in part or otherwise adjusting the requirements;
- (6) Withholding approval of any compliance option that meets the requirements of the Acid Rain Program; or

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