

WAC 173-406-605 Acid rain permit appeal procedures. (1) Appeals of the acid rain portion of an operating permit issued by the permitting authority that do not challenge or involve decisions or actions of the administrator under 40 C.F.R. part 72, 73, 75, 77 and 78 and sections 407 and 410 of the act and regulations implementing sections 407 and 410 shall be conducted according to the procedures in chapter 43.21 RCW. Appeals of the acid rain portion of such a permit that challenge or involve such decisions or actions of the administrator shall follow the procedures under 40 C.F.R. part 78 and section 307 of the act. Such decisions or actions include, but are not limited to, allowance allocations, determinations concerning alternative monitoring systems, and determinations of whether a technology is a qualify-repowering technology.

(2) No administrative appeal or judicial appeal of the acid rain portion of an operating permit shall be allowed more than thirty days following respectively issuance of the acid rain portion that is subject to administrative appeal or issuance of the final agency action subject to judicial appeal.

(3) The administrator may intervene as a matter of right in any state administrative appeal of an acid rain permit or denial of an acid rain permit.

(4) No administrative appeal concerning an acid rain requirement shall result in a stay of the following requirements:

(a) The allowance allocations for any year during which the appeal proceeding is pending or is being conducted;

(b) Any standard requirement under WAC 173-406-106;

(c) The emissions monitoring and reporting requirements applicable to the affected units at an affected source under 40 C.F.R. part 75;

(d) Uncontested provisions of the decision on appeal; and

(e) The terms of a certificate of representation submitted by a designated representative under subpart B of 40 C.F.R. part 72.

(5) The permitting authority will serve written notice on the administrator of any state administrative or judicial appeal concerning an acid rain provision of any operating permit or denial of an acid rain portion of any operating permit within thirty days of the filing of the appeal.

(6) The permitting authority will serve written notice on the administrator of any determination or order in a state administrative or judicial proceeding that interprets, modifies, voids, or otherwise relates to any portion of an acid rain permit. Following any such determination or order, the administrator will have an opportunity to review and veto the acid rain permit or revoke the permit for cause in accordance with WAC 173-401-810 and 173-401-820.

[Statutory Authority: Chapter 70.94 RCW. WSR 94-23-127 (Order 94-23), § 173-406-605, filed 11/23/94, effective 12/24/94.]