

penalty assessment required under paragraphs (h)(4)(x)(A) and (B) of this section shall not affect the liability of the source for remedies under this paragraph.

(xi) *Provisions for periodic evaluation of the trading program.* The implementation plan must provide for an evaluation of the trading program no later than 3 years following the first full year of the trading program, and at least every 5 years thereafter. Any changes warranted by the evaluation should be incorporated into the next periodic implementation plan revision required under paragraph (d)(10) of this section. The evaluation must be conducted by an independent third party and must include an analysis of:

(A) Whether the total actual emissions could exceed the values in § 51.309(h)(4)(i), even though sources comply with their allowances;

(B) Whether the program achieved the overall emission milestone it was intended to reach;

(C) The effectiveness of the compliance, enforcement and penalty provisions;

(D) A discussion of whether States and Tribes have enough resources to implement the trading program;

(E) Whether the trading program resulted in any unexpected beneficial effects, or any unintended detrimental effects;

(F) Whether the actions taken to reduce sulfur dioxide have led to any unintended increases in other pollutants;

(G) Whether there are any changes needed in emissions monitoring and reporting protocols, or in the administrative procedures for program administration and tracking; and

(H) The effectiveness of the provisions for interstate trading, and whether there are any procedural changes needed to make the interstate nature of the program more effective.

(5) *Other provisions.*

(i) *Permitting of affected sources.* The implementation plan must provide that for sources subject to part 70 or part 71 of this chapter, the implementation plan

requirements for emissions reporting and for the trading program under paragraph (h) of this section must be incorporated into the part 70 or part 71 permit. For sources not subject to part 70 or part 71 of this chapter, the requirements must be incorporated into a permit that is enforceable as a practical matter by the Administrator, and by citizens to the extent permitted under the Clean Air Act.

(ii) *Integration with other programs.* The implementation plan must provide that in addition to the requirements of paragraph (h) of this section, any applicable restrictions of Federal, State, and tribal law remain in place. No provision of paragraph (h) of this section should be interpreted as exempting any source from compliance with any other provision of Federal, State, tribal or local law, including an approved implementation plan, a Federally enforceable permit, or any other Federal regulations.

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