

## Environmental Protection Agency

## § 66.51

transmitted as required by § 66.12. The source owner or operator shall respond to this notice within 45 days of its receipt and in the form provided in § 66.13.

### Subpart E—Decisions on Exemption Requests and Challenges to Notices of Noncompliance

#### § 66.41 Decision on petitions.

(a) Within thirty days after receiving a petition filed under § 66.13, the Administrator shall notify the source owner or operator in writing that:

(1) The petition demonstrates that the source owner or operator is entitled to part or all of the relief requested and that the notice of noncompliance is withdrawn or modified accordingly;

(2) The petition does not contain sufficient information to demonstrate that the source owner or operator is entitled to part or all of the relief requested. The Administrator shall specify what deficiencies exist and request that the source owner or operator supplement his petition within thirty days of receipt of that request. If the petition is not supplemented adequately within this time, or, if supplemented adequately, still fails to demonstrate entitlement to relief, the Administrator shall grant a hearing under paragraph (a)(3) of this section. Any supplemental material provided pursuant to the Administrator's request shall be evaluated as provided in paragraphs (a)(1) and (a)(3) of this section.

(3) A hearing is granted on the issue of whether the source is in violation of applicable legal requirements or is entitled to an exemption under §§ 66.31, 66.32, 66.33, or on both.

[45 FR 50110, July 20, 1980, as amended at 50 FR 36734, Sept. 9, 1985]

#### § 66.42 Procedure for hearings.

(a) Except as provided in §§ 66.32 and 66.33, hearings granted under § 66.41(a)(3) shall be held as provided in Subpart J.

(b) If hearings are granted pursuant to both § 66.32 or § 66.33 and under Subpart J, a consolidated hearing in accordance with Subpart J shall be held.

At the consolidated hearing the issues that would otherwise have been considered at a hearing under § 66.32 or § 66.33 shall be considered pursuant to the procedures for a hearing provided in those sections.

(c) The Presiding Officer at a hearing granted under § 66.41 shall issue an initial decision within 90 days after the Administrator grants the hearing, unless the duration of the hearing or the deadline for decision is extended by the Presiding Officer upon agreement of the parties. Failure to issue a decision (whether or not by consent) within 90 days shall not affect the validity of the proceedings or the accrual of penalties in any manner.

#### § 66.43 Final decision; submission of penalty calculation.

Within forty-five days after EPA has notified the owner or operator of a source of the final Agency decision that it is in violation of applicable legal requirements or is not entitled to an exemption, the owner or operator shall submit the information required by § 66.13(a), including appropriate compliance and payment schedules and extra interest owed for the period of delay. The penalty shall be calculated from the date of receipt of the original notice of noncompliance.

### Subpart F—Review of Penalty Calculation

#### § 66.51 Action upon receipt of penalty calculation.

(a) Within thirty days after receipt of a penalty calculation provided pursuant to § 66.13(a)(1) or § 66.43, the Administrator shall notify the source owner or operator in writing, that:

(1) The penalty is provisionally accepted as calculated, subject to any recalculation that may be necessary under § 66.72 after the source has achieved compliance; or

(2) The penalty is incorrect and has been recalculated based on the data provided by the source owner or operator, or other data. The Administrator shall provide a brief statement of the basis for the recalculation and shall identify when and where any supporting data may be examined. The Administrator shall also notify the source