

§ 66.73

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specify what deficiencies exist and shall require the source owner or operator to furnish the supplemental material within thirty days of receipt of the notice. The supplemental material submitted will be evaluated in the same manner as the original submittal.

(c) If a source owner or operator fails to submit or to complete a revised penalty calculation when due under this section or the calculation submitted is incorrect, the Administrator may recalculate the penalty or may enter into a contract for independent calculation of the penalty as provided in § 66.22.

(d) Within 120 days after the source owner or operator receives notification pursuant to § 66.71(d) that the period of covered noncompliance ended on the date the applicable legal requirement was superseded (or, in event of EPA delay past an applicable statutory deadline, on the date the applicable legal requirement would have been superseded if there had been no delay past the statutory deadline), the source owner or operator shall submit to the Administrator a revised penalty calculation as provided in the Technical Support Document and Manual together with data necessary for verification. The revised calculation shall include interest on any underpayment. Paragraphs (b) and (c) shall apply to calculations submitted under this paragraph.

[45 FR 50110, July 20, 1980 as amended at 50 FR 36734, Sept. 9, 1985; 57 FR 5329, Feb. 13, 1992]

§ 66.73 Petition for reconsideration and procedure for hearing.

Within forty-five days of receipt of a notice under § 66.72(b) (2) a source owner or operator may petition for reconsideration in the form and manner provided in § 66.52. The petition shall be evaluated as provided in § 66.53 and any hearing shall be held in conformity with § 66.54.

§ 66.74 Payment or reimbursement.

(a) Within thirty days after any adjustment of a noncompliance penalty under this subpart has become administratively final:

(1) Any deficiency owed by the source owner or operator shall be paid as provided in § 66.62.

(2) Any reimbursement shall be paid by check from the United States payable to the order of the source owner or operator, and sent by registered or certified mail, return receipt requested.

(b) Any payment under paragraph (a) of this section, shall include interest on the amount of the deficiency or reimbursement due, from the date the deficiency or reimbursement arose, at a rate determined by the Secretary of the Treasury. Such payment shall be calculated in accordance with the Technical Support Document and the Manual.

(c) Any source owner or operator who fails to make timely payment of a deficiency shall pay a nonpayment penalty. The nonpayment penalty shall be calculated as of the due date of the deficiency payment and shall be equal to 20% of the deficiency not paid. Such nonpayment penalty (in addition to the amount of the deficiency owed) shall be payable immediately. If any part of the nonpayment penalty or deficiency shall remain unpaid at the end of three calendar months from the due date of the deficiency, a further nonpayment penalty shall be due equal to 20% of the sum of all payments due and owing. Partial payments shall be credited first against the nonpayment penalty, then the deficiency.

Subpart I—Final Action

§ 66.81 Final action.

(a) A final Agency action appealable to the courts by the source owner or operator includes and is limited to the following, provided the conditions of paragraph (b) of this section are met:

(1) A notice of determination that a source is in violation of applicable legal requirements;

(2) A notice of decision to deny or revoke an exemption under subpart D;

(3) A notice of revision by EPA of a penalty calculation or schedule under subpart F;

(4) A notice of decision by EPA that the source is not in final compliance or any revision by EPA of a final penalty calculation under subpart H; and

(5) A notice of denial of a petition for reconsideration under § 66.71 or § 66.73.