

40 C.F.R. § 67.42

Procedure where no formal State hearing was held.

- (a) In reviewing a penalty calculation for which no hearing conforming to the requirements of § 67.11(b)(4) was held, the Administrator shall evaluate the accuracy and adequacy of the data contained in the documents transmitted to him pursuant to § 67.11(b)(5) and shall invite comments on issues identified by him as relevant to his review.
- (b) If the Administrator concludes that no hearing need have been held and that the State determination was correct, he shall notify the State, the source owner or operator, and other participants of his determination, which shall constitute final agency action by EPA under authority of section 120. If the Administrator concludes that the petition of the source owner or operator for reconsideration of a recalculation presented information which, if true, would have altered the amount of the penalty calculated, he shall upon notice to the State schedule a hearing in accordance with subpart F of part 66. Such notice shall operate as a withdrawal of EPA's delegation of authority to the State or local agent over the facility in question unless the State or local agent schedules a hearing within 15 days of receipt of the notice.

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