§ 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.

(b) The actions listed in paragraph (a) of this section constitute final Agency action only if all administrative remedies have been exhausted. To exhaust administrative remedies, a source owner or operator must first petition for reconsideration of the decision in question and, if unsuccessful after hearing or after denial of hearing, appeal the decision in question to the Environmental Appeals Board. The action becomes final upon completion of any review by the Environmental Appeals Board and notice thereof to the owner or operator of the source.

(c) Where a petition seeks reconsideration both of the finding of noncompliance and of the finding of liability on the ground that the source owner or operator is entitled to an exemption, both questions must be decided before any review by the Environmental Appeals Board is sought, except on agreement of the parties.