

a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects in 28 CFR Part 527

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 527 in subchapter B of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 527—TRANSFERS

1. The authority citation for 28 CFR part 527 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3565, 3569, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4100–4115, 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 4201–4218, 5003, 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 527.31, paragraph (a) is amended by removing the second sentence, paragraph (c) is amended by revising the second sentence, paragraph (d) is amended by revising the second sentence, and paragraph (h) is revised to read as follows:

§ 527.31 Procedures.

* * * * *

(c) * * * The request shall be made by letter. * * *

(d) * * * Institution staff shall verify the authenticity of the writ.

* * * * *

(h) Release of inmates classified as Central Inmate Monitoring Cases requires review with and/or coordination by appropriate authorities in accordance with the provisions of 28 CFR part 524, subpart F.

[FR Doc. 97-7292 Filed 3-21-97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputation of Shares

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for comment.

SUMMARY: This interim rule provides an opportunity for timber purchasers to appeal the recomputation of the small business share of National Forest System Timber sales. The rule is necessary to implement a legislative requirement to provide timber purchasers the opportunity to comment on and appeal recomputation of shares and related decisions made under the Small Business Timber Sale Set-Aside Program.

DATES: *Effective Dates:* This rule is effective March 24, 1997, except for § 223.18 paragraph (f) which contains information collection requirements that have not been approved by the Office of Management and Budget. The Forest Service will publish a subsequent notice in the **Federal Register** announcing the effective date of the information collection requirements.

Comment Date: Comments on this interim rule must be received by May 23, 1997.

ADDRESSES: Send written comments to Director, Timber Management, MAIL STOP 1105, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090. Comments received, including name and address where provided, shall be placed in the record of the rulemaking and made available for copying and public inspection.

FOR FURTHER INFORMATION CONTACT: Rod Sallee, Timber Management Staff, (202) 205-1766.

SUPPLEMENTARY INFORMATION:

Background

Developed in cooperation with the Small Business Administration, the Forest Service Small Business Timber Sale Set-Aside Program is designed to ensure that qualifying small business timber purchasers have the opportunity to purchase a fair proportion of National Forest System timber offered for sale. The current set-aside program was adopted July 26, 1990 (55 FR 30485).

Under the program, the Forest Service must recompute the shares of timber sales to be set-aside for qualifying small businesses every five years based on the actual volume of sawtimber that has

been purchased and/or harvested by small businesses. Also, shares must be recomputed if there is a change in manufacturing capability, if the purchaser size class changes, or if certain purchasers discontinue operations. Direction to guide employees in administering the Small Business Timber Sale Set-Aside Program is issued in the Forest Service Manual, Chapter 2430, and Chapter 90 of the Forest Service Timber Sale Preparation Handbook (FSH) 2409.18.

In 1992, the agency adopted new administrative appeal procedures at 36 CFR part 215 in response to new statutory direction. These rules apply to all National Forest System project-level decisions for which an environmental assessment (EA) or impact statement (EIS) has been prepared. Because the recomputation of shares under the Small Business Set-Aside Program is not subject to documentation in an EA or EIS, the decisions on the 1996–2000 Forest Service recomputation of small business shares were not subject to the appeal procedures. However, since the agency had accepted appeals of recomputation decisions under 36 CFR part 217 prior to adoption of part 215, the agency decided to establish procedures for providing notice to affected purchasers with opportunity to comment on the recomputation of shares. Notice of these procedures was published in the **Federal Register** on February 28, 1996 (61 FR 7468).

The Conference Report accompanying the 1997 Omnibus Appropriation Act (Public Law 104-208) found the Forest Service decision to eliminate an administrative appeals opportunity for the Small Business Timber Sale Set-Aside Program “unacceptable” and directed the Forest Service to reinstate an appeals process before December 31, 1996. The Conference Report requires that the agency establish a process by which purchasers may appeal decisions concerning recomputations of SBA shares, structural recomputations of SBA shares, or changes in policies impacting the timber sale set-aside program. It also provides that, as in the past, decisions related to the designation of the sales to be set aside will not be open for appeal.

Good Cause Exemption

The Conference Report accompanying the FY 1997 Omnibus Appropriation Act directed reinstatement of the appeals process by December 31, 1996. The Department has determined that such reinstatement can occur only through informal rulemaking (5 U.S.C. 552). Regrettably, the Department was not able to meet the December deadline

because of the press of other business, but it is trying to implement the direction as expeditiously as possible. Given that the congressional intent can be met only through rulemaking, that in the conference report Congress set a specific date, and that it would be impracticable to give notice and obtain comment, good cause exists to adopt an interim rule without prior public comment. However, while the rule is immediately effective to comply with congressional intent, the Department is requesting comment on the provisions set out in this interim rule for consideration in adoption of a final rule.

Provisions of the Rule

The appeal process at issue is limited to the Timber Sale Set-Aside Program; therefore, the interim rule is issued to 36 CFR part 223—Sale and Disposal of National Forest System Timber, under Subpart B rules dealing with contract administration. The Set-Aside Program appeal procedures are set out at a new § 223.118. To the extent possible, the Department has modeled this very specific appeal procedure on the other appeal processes administered by the Forest Service in order to foster common interpretation, consistent processing, and public and employee understanding.

Paragraph (a) of § 223.118 specifies that the decisions subject to appeal are the various recomputations of small business shares of timber sales, namely structural, special, and market change as well as the scheduled five-year recomputations.

Paragraph (b) addresses the manner of giving notice of proposed and actual recomputation decisions. Paragraph (b)(1) of the interim rule requires the agency to give predecisional notice and opportunity to comment on "draft" recomputation decisions. Timber sale purchasers in the affected area will have 30 days to review the draft decision and supporting data and to provide comments. The Responsible Official has 15 days to review and consider the comments and to make and give notice of the recomputation decision. This approach is consistent with the predecisional notice and comment procedures of the agency's principal appeal rules at 36 CFR part 215.

Paragraph (b)(2) of the interim rule requires the Responsible Official to give written notice of the final decision to all purchasers on the timber sale bidders list for the affected area and to advise them of appeal rights and filing procedures. This decision notice must identify the name of the Appeal Deciding Officer to whom a appeal of the decision may be

filed, the address, and the deadline for filing.

Paragraph (c) of § 223.118 specifies that only timber sale purchasers on the bidders list for the affected area who have submitted predecisional comments pursuant to paragraph (b) may appeal. This approach is consistent with that at 36 CFR 215.11, which provides that prior participation in the decisionmaking process is a condition of appeal. However, unlike the rules at 36 CFR 215.11, this interim rule does not permit interested parties (parties other than affected purchasers of their representative) to submit views for consideration in the appeal process. Since only purchasers are directly affected by the recomputation of the small business share of the local timber sale program, there is no apparent need to provide for participation of interested parties.

Paragraph (d) of the interim rule provides for one level of appeal and notes that generally appeals are conducted by the Regional Forester. Consistent with the approach under 36 CFR part 215, only one level of appeal is provided.

Paragraph (e) provides 20 days to file a notice of appeal with the Appeal Deciding Officer.

Paragraph (f) sets out the minimums information that must be included in a notice of appeal. The requirements in paragraph (f)(2) constitute an information collection as defined by the Paperwork Reduction Act and are described in detail later in the preamble under the heading "Controlling Paperwork Burden on the Public." This provision of the rule is not effective until the Office of Management and Budget approves the information requirement. Emergency approval of the information required in a notice of appeal has been requested from the Office of Management and Budget. The agency will give notice of the number assigned to the information required by paragraph (f) along with the effective date which will be published in the **Federal Register**. In the meantime, the public is invited to submit comments on this collection.

Paragraph (g) addresses the filing periods, how time periods are calculated, and how timeliness is determined. These procedures are basically the same as those already in use with other Forest Service appeal procedures under 36 CFR parts 215, 217, and 251, subpart C.

Paragraph (h) sets out the three circumstances under which an appeal will be dismissed without a decision. These are consistent with dismissal of appeals under part 215.

Paragraph (i) defines the record on which the Appeal Deciding Officer must base the appeal decision. In the interest of an efficient and timely appeal process, the record is limited to the written decision, supporting documentation, the notice of appeal, and the responsive statement, if any. Also, the Responsible Official is given only seven days to gather and assemble the record and to transmit it to the Appeal Deciding Officer.

Paragraph (j) requires the Appeal Deciding Officer to issue the appeal decision in writing within 30 days of the cost of the appeal period.

Paragraph (k) addresses implementation of recomputation decisions during pendency of appeals. It provides that if an appeal is not resolved by April 1 following the end of the 5-year recomputation period, the Responsible Official will proceed to implement the decision. If the appeal decision changes the shares, the necessary adjustments will be made in the remaining portion of the 5-year period.

Paragraph (l) requires that timber purchasers be given an opportunity to review and comment on significant changes in the Small Business Timber Sale Set-Aside program or policy prior to adoption and implementation. This opportunity will be given through **Federal Register** notice and is consistent with the agency's treatment of all other major policy decisions.

The sequence and content of the rules of § 223.118 are modeled on those of 36 CFR part 215. The interim rule adopts the same rules of procedure with regard to the content of the notice of appeal, timely filing, appeal record, dismissal, and timeframe for decisions. These rules are well understood by those who have participated in Forest Service administrative appeals, including many timber sale purchasers or their representatives, and, therefore, should facilitate appellant understanding and use of these appeal procedures.

Environmental Impact

This interim rule would establish uniform procedures for providing qualifying timber purchasers the opportunity to review, comment, and appeal decisions on recomputed shares of the small business timber sale set-aside program. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The agency's assessment

is that this interim rule falls within this category of actions and has no direct or indirect environmental impact, and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

However, comments are invited and will be considered in making a final determination upon adoption of the final rule.

Controlling Paperwork Burdens on the Public

The information that would be collected from timber sale purchasers who appeal recomputation of shares under the Small Business Timber Sale Set-Aside Program is the minimum needed for an Appeal Deciding Officer to reach informed conclusions about decisions appealed under this rule.

Description of Information Collection

Title: Small Business Timber Sale Set-Aside Program; Appeal Procedures on Recomputations of Shares.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: The following collection requirements are new and have not received approval by the Office of Management and Budget.

Abstract: This collection would consist of information provided by purchasers who object to a recomputation decision of timber sales to be set aside for small timber purchasers. The information to be provided shows why the appellant believes the recomputation decision should be overturned.

Estimate of Burden: The public reporting burden to provide comments or prepare a notice of appeal pursuant to the interim rule is estimated to average 4 hours per response.

Respondents: Large and small businesses purchasing National Forest System timber sales or their agents.

Estimated Number of Respondents: 40.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 320 hours.

Comments are Invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of this agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the collection of information on respondents; including the use of automated collection techniques or other forms of information technology.

Use of Comments

All comments received on the information requirements in response to this rulemaking notice will be summarized and included in the subsequent routine request for OMB approval of the information collection. All comments, including names and addresses where provided, will also become a matter of public record.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, the Department has assessed the effects of this rule on State, local, and tribal governments and the private sector. This interim rule does not compel the expenditure of \$100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Regulatory Impact

This interim final rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This rule will not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This interim rule will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients of such programs. Accordingly, this interim rule is not subject to OMB review under Executive Order 12866.

Pursuant to 5 U.S.C. 605(b), it is hereby certified that this interim rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act. The interim rule imposes no additional requirements on small business timber sale purchasers or other small entities. It merely implements legislative intent to provide small purchasers a new administrative appeal opportunity. To facilitate preparation and conduct of timber sale set-aside appeals, the agency has kept

the appeal procedures as streamlined and simple as possible.

No Takings Implications

This interim rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the rule does not pose the risk of a taking of Constitutionally-protected private property. This interim rule gives opportunity to qualifying timber sale purchasers to ensure that small businesses have the opportunity to purchase a fair proportion of National Forest System timber offered for sale.

Civil Justice Reform Act

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this interim rule were adopted, (1) all state and local laws and regulations that are in conflict with this interim rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this interim rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Summary

This interim rule complies with the congressional intent of the conference report on the Fiscal Year 1997 Omnibus Appropriations Act by reinstating an administrative appeal opportunity for timber sale purchasers of small business timber sale share recomputation decisions in a manner consistent with previous appeal procedures and subsequent statutory predecisional notice and comment provisions. To enhance both employee and purchaser understanding, this interim rule models the provisions of other administrative appeal rules already in place (36 CFR part 215, 217, and 251) to the extent possible. The Department invites written comment on this interim final rule. Notice of the final rule, including discussion of comments received, will be published in the **Federal Register**.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting requirements, Timber sales.

Therefore, for the reasons set forth in the preamble, Subpart B of Part 223 of Title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation for Part 223 continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618; 104 Stat. 714–726, 16 U.S.C. 620–620h, unless otherwise noted.

2. Add a new § 223.118 to subpart B to read as follows:

§ 223.118 Appeal process for small business timber sale set-aside program share recomputations.

(a) *Decisions subject to appeal.* The rules of this section govern appeal of decisions about structural, special, market change, or the scheduled five-year recomputations of the small business share of timber sales. Only those timber sale purchasers who have submitted written comments to the Responsible Official on the draft recomputed share decision, or their representatives, are eligible to appeal a decision.

(b) *Manner of giving notice—(1) Predecisional notice and comment.* Qualifying timber sale purchasers that may be affected by recomputations shall be given 30 days for predecisional review and comment on any draft decision to reallocate shares, including the data used in making the proposed recomputation decision.

(2) *Notice of Decision.* Upon close of the 30-day review period, the Responsible Official shall consider any comments reviewed. Within 15 days following the end of the comment period, the Responsible Official shall make the decision on the small business shares and shall give prompt written notice to all parties on the national forest timber sale bidders list for the affected area. The notice shall identify the name of the Appeal Deciding Officer to whom an appeal of the decision may be filed, the address, the date by which an appeal must be filed, and where the purchaser may obtain the appeal procedure and requirements.

(c) *Who may appeal.* Only timber sale purchasers affected by recomputations of the small business share of timber sales, or their representatives, who have submitted predecisional comments pursuant to paragraph (b)(1) of this section may appeal recomputation decisions under this section. Intervenor are not allowed in appeals under this section.

(d) *Level of appeal.* Only one level of review is available for appeal of decisions pertaining to recomputations under the Small Business Timber Set-Aside Program. The Appeal Deciding Officer is the official one level above the level of the Responsible Official who made the recomputation of shares decision. The Responsible Official is normally the Forest Supervisor; thus, the Appeal Deciding Officer is normally the Regional Forester. However, when

the Regional Forester makes recomputation decisions, the Appeal Deciding Officer is the Chief or such officer at the National headquarters level as the Chief may designate.

(e) *Filing procedures.* In order to file an appeal under this section, an appellant must file a notice of appeal, as specified in the notice of decision, with the Appeal Deciding Officer within 20 days of the date on the notice of the decision. This date shall be specified in the notice of decision given pursuant to paragraph (b)(2) of this section.

(f) *Content of notice of appeal.* (1) It is the responsibility of the appellant to provide sufficient narrative evidence and argument to show why a recomputation decision by the Responsible Official should be reversed or changed.

(2) An appellant must include the following information in a notice of appeal:

(i) The appellant's name, mailing address, and daytime telephone number;

(ii) The title or type of recomputation decision involved, the date of the decision, and the name of the Responsible Official;

(iii) A brief description and date of the decision being appealed;

(iv) A statement of how the appellant is adversely affected by the decision being appealed;

(v) A statement of the facts in dispute in the issue(s) raised by the appeal;

(iv) Specific references to any law, regulation, or policy that the appellant believes to have been violated and the basis for such as allegation;

(vii) A statement as to whether and how the appellant has tried to resolve with the Responsible Official the issue(s) being appealed, including evidence of submission of written comments at the predecisional stage as provided by paragraph (a) of this section, the date of any discussion, and the outcome of that meeting or contact; and

(viii) A statement of the relief the appellant seeks.

(g) *Time periods and timeliness.* (1) All time periods applicable to this section will begin on the first day following a decision or action related to the appeal.

(2) Time periods applicable to this section are computed using calendar days. Saturdays, Sundays, or Federal holidays are included in computing the time allowed for filing an appeal; however, when the filing period would expire on a Saturday, Sunday, or Federal holiday, the filing time is automatically extended to the end of the next Federal working day.

(3) It is the responsibility of those filing an appeal to file the notice of appeal by the end of the filing period. In the event of questions, legible postmarks on a mailed appeal or the time and date imprint on a facsimile appeal will be considered evidence of timely filing. Where postmarks or facsimile imprints are illegible, the Appeal Deciding Officer shall rule on the timeliness of the notice of appeal.

(4) Time for filing a notice of appeal is not extendable.

(h) *Dismissal without decision.* The Appeal Deciding Officer shall dismiss an appeal and close the record without a decision in any of the following circumstances:

(1) The appellant is not on the timber sale bidders list for the area affected by the recomputation decision;

(2) Appellant's notice of appeal is not filed within the required time period; or

(3) The appellant did not submit written comments on the proposed decision of the new recomputed shares as required by paragraph (c) of this section.

(i) *Appeal record.* The appeal record consists of the written decision being appealed, any predecisional comments received, any other supporting data used to make the decision, the notice of appeal, and if prepared, a responsive statement by the Responsible Official which addresses the issues raised in the notice of appeal. The Responsible Official must forward the record within 7 days of the date the notice of appeal is received. A copy of the appeal record will be simultaneously submitted to the appellant.

(j) *Appeal decision.* The Appeal Deciding Officer shall review the decision and appeal record and issue a written appeal decision to the parties within 30 days of the close of the appeal period. The Appeal Officer may affirm or reverse the Responsible Official's decision, in whole or in part. There is no extension of the time period for the appeal decision. If the decision is not rendered within the required 30 days, the existing decision is automatically affirmed. The Appeal Deciding Officer's decision or the failure of the Appeal Deciding Officer to decide within the required 30 days constitutes the final administrative decision of the Department of Agriculture.

(k) *Implementation of decisions during pendency of appeal.*

Recomputation of shares arising from a scheduled five-year recomputation are effective on April 1 following the end of the five-year period being considered. If an appeal that may affect the shares for the next five-year period is not resolved by the April 1 date, the share decision

announced by the Responsible Official shall be implemented. If an appeal decision results in a change in the shares, the revised total share of the Small Business Timber Sale Set-Aside Program shall be accomplished during the remaining portion of the five-year period.

(l) *Timber sale set-aside policy changes.* Timber purchasers shall receive an opportunity, in accordance with all applicable laws and regulations, to review and comment on significant changes in the Small Business Timber Sale Set-Aside program or policy prior to adoption and implementation.

Dated: March 17, 1997.

Brian Eliot Burke,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 97-7274 Filed 3-21-97; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD-FRL-5702-5]

Clean Air Act Final Interim Approval of Operating Permits Program; State of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the State of Connecticut for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: April 23, 1997.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, CAP, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203-2211, (617) 565-4298.

SUPPLEMENTARY INFORMATION:

I. Background

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the

Clean Air Act ("the Act")), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the Part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval. If EPA has not fully approved a program by the end of an interim program, it must establish and implement a Federal program.

On December 6, 1996, EPA proposed interim approval of the operating permits program for the State of Connecticut. See 61 FR 64651. The EPA received comments from the Society of the Plastics Industry, Inc. on the proposal. In this document, EPA is taking final action to promulgate interim approval of the operating permits program for the State of Connecticut.

II. Response to Comments

The comments received on EPA's December 6, 1996 proposal to grant interim approval to the Connecticut Program and EPA's response to those comments are as follows:

Comment No. 1: Permit fees for the Connecticut program should be no higher than the amount specified by the Clean Air Act.

Response: The amount in the Act of \$25 per ton of emissions on an annual basis, adjusted by the consumer price index, was never intended to be the ceiling on the money a State could collect to operate a title V program. Instead, the Act is clear that a State is required to charge sufficient fees to cover the costs of implementing a title V program. Connecticut has analyzed its needs to fully implement a title V program and has concluded that it would need 3.6 million dollars per year. EPA has determined that this amount meets the requirements of 40 CFR 70.9 regarding the permit fees and disagrees that the State may be collecting excess fees. More importantly, EPA has no authority to require Connecticut to limit its fees to the \$25 per ton of emissions.

Comment No. 2: Commenter disagreed with EPA's position to require Connecticut to amend its rule in order to allow EPA to object to a permit at any time after receiving a citizen's petition that requests EPA to veto a permit.

Response: In interim approval condition No. 4, EPA is requiring

Connecticut to remove the 45 day limit the State regulations attempt to impose on EPA's ability to object to a permit following receipt of a citizen petition. Section 505(b)(2) of the Act imposes a 60 day deadline on EPA to act on a citizen petition, but it does not disable EPA from objecting to a permit or moving to reopen the permit if EPA should miss the 60 day deadline when responding to a meritorious citizen petition. Section 505(e) of the Act and 40 CFR 70.7(g) make it clear that EPA can initiate the process to modify or revoke and reissue a permit at any time if the permit is inconsistent with the applicable requirements of the Act. Therefore, Connecticut has no authority to impose a 45 day limit on EPA's opportunity to respond to a citizen petition.

Comment No. 3: Connecticut should be allowed to extend the permit shield to Administrative Amendments, especially because administrative amendments have no environmental impact.

Response: Part 70 limits a permit shield to only those permit modifications that receive full EPA, affected states, and public review. Connecticut's administrative amendments do not receive any EPA, affected state, or public review. Therefore, EPA disagrees with the commenter and still requires Connecticut to remove the permit shield from administrative amendments.

While it is true that properly executed administrative amendments should have no environmental impact, this is not a justification for extending the permit shield to such changes. Indeed, the shield is probably irrelevant to the vast majority of administrative amendments because, by definition, they will not effect how the facility demonstrates compliance with the Act (except perhaps to enhance the compliance demonstration through more frequent reporting). Moreover, if a permit change that does effect compliance terms in the permit is mistakenly made using an administrative amendment, Connecticut's rule should not create the risk that this change will shield a facility from direct enforcement of the Act.

Comment No. 4: Title V should only apply to major sources and Connecticut should remove its requirement that non-major sources obtain a title V permit within five years of the implementation date.

Response: At this time, EPA has deferred its decision on whether non-major sources will have to obtain title V permits. 40 CFR 70.3(b) allows