

part 70 (59 FR 44460, Aug. 29, 1994) regarding the types of changes that would be eligible for this process, the details of the process itself, and the rationale for the creation of this revision track.

In certain respects, the de minimis track in part 71 would differ from that in proposed part 70. For example, a person who was unsuccessful in persuading the part 71 permitting authority to disapprove a source's requested de minimis change could not petition EPA to object to the permit. This is because both when EPA is the permitting authority and when EPA has delegated that responsibility, citizens will already have the opportunity to directly appeal the final de minimis permit revision to the Environmental Appeals Board. Thus, requiring an intermediate step of requesting EPA to object to its own permitting action would both be redundant and delay citizen access to administrative, and ultimately judicial, review of the change. The Agency solicits comment on this approach. While the proposed revisions to part 70 would leave States discretion in developing their part 70 programs in determining whether the source, versus the State permitting authority, would have the responsibility to provide public notice of de minimis changes, under part 71, sources would have that duty. This specificity is due to the fact that EPA, unlike States, will not be conducting further program development for part 71 programs beyond promulgating part 71, so it is necessary for EPA to establish in this rule whether the public notification duty will fall on sources or the permitting authority. The EPA proposes to place the public notice responsibility on sources because the Agency believes that sources will be in a better position to provide timely notice of their de minimis changes than EPA regional offices would be and will have more ready access to area newspapers for providing such notice. Consequently, requiring sources to provide notice should ensure that de minimis changes are expeditiously processed. Moreover, EPA believes that under the proposed revisions to part 70, revised State programs could commonly require sources to provide such notice, and consistency in implementation of de minimis permit revision procedures will aid program transition when States obtain part 70 approval or when EPA assumes permitting responsibilities.

As under the proposed revisions to part 70, the scope of de minimis changes would be defined in two ways. Any change at a small emissions unit ("unit-based" de minimis) would

qualify, as would a small change at a large unit ("increment-based" de minimis), provided certain conditions designed to ensure the enforceability of the resulting permit limit were met. Unlike the proposed revisions to part 70, for part 71 EPA is not proposing that permitting authorities, whether they are EPA or delegate States or eligible Tribes, could establish alternative de minimis emissions thresholds based on a demonstration submitted subsequent to final promulgation of part 71. This is because, again, after promulgation of part 71, EPA will not be further developing part 71 programs, so there will not be an opportunity to consider alternative de minimis thresholds. Moreover, EPA does not believe that EPA delegation of part 71 administration to States or eligible Tribes provides an adequate forum for evaluating alternative thresholds developed by States or eligible Tribes, since there will be no formal approval action in those delegations and the public will not have an opportunity to comment upon them before they are effective.

Procedurally, part 71 would also provide more specificity than would the proposed revisions to part 70. For example, the source could operate the requested de minimis change 7 days after the permitting authority received the application or, with the permitting authority's permission, as early as the day its application is submitted. The proposed revisions to part 70 provide that States in developing their part 70 programs would have discretion to allow changes to be made 7 days following receipt of the application, and such authorization would be included in their program submittals for EPA approval; as discussed above, since promulgation of part 71 will represent the final stage of part 71 program development, proposed part 71 specifies that sources could make de minimis implement changes after 7 days.

Also, under part 71, sources would be required to provide public notice of de minimis changes on a monthly, batched basis, publishing one notice listing all changes at the source for which applications for de minimis permit revisions had been sent to the permitting authority in the preceding month. The EPA solicits comment on this approach, particularly regarding the extent to which States intend to impose the public notification duty on sources under the proposed revisions to part 70. While the proposed revisions to part 70 specified neither who has the responsibility for providing public notice nor the manner in which public notice should be given, part 71 would

be specific on these points, for the reasons discussed above. The EPA solicits comment, however, on the method or methods sources could use to provide such notice. For example, sources could be required to publish notice of de minimis changes in a newspaper of general circulation within the area where the source is located or in State or local governmental publications, to send actual notice to interested persons on a list developed by the source or the permitting authority, or both. At minimum, the final rule will provide a mechanism to ensure that public notice reaches all interested citizens.

c. *Minor Permit Revisions.* Under today's proposal, most changes ineligible for administrative amendment or de minimis permit revision procedures would be eligible for the minor permit revision process. Taking the current part 70 rule's minor permit modification process as a starting point and following the proposed revisions to part 70, proposed part 71 would add expedited procedures for providing public notice and a 21-day comment period, allow the source to operate the requested change at the end of the 21-day comment period when no objections are received, and provide for permitting authority final action to be taken on applications within 60 days of their receipt. The description of and the rationale for EPA's proposed minor permit revision process for part 70 is contained in the preamble to the proposed revisions to part 70 (see 59 FR 44460, Aug. 29, 1994). To the extent applicable to part 71, EPA incorporates that rationale for this notice. However, where elements of the minor permit revision track differ in proposed part 71 from those in part 70, this notice describes those differences. A more detailed discussion of the part 71 minor permit revision process is contained in section 3-F-2-c of the Supplementary Information Document.

For part 71 minor permit revisions, as for de minimis changes and merged program administrative amendments, notice to EPA, and EPA's 45-day review period and opportunity to veto would occur only where EPA had delegated its role as the permitting authority to a State or eligible Tribe. While this is a departure from the proposed revisions to part 70, as discussed previously, EPA does not believe there is any utility, when EPA is the permitting authority, in requiring EPA review of EPA permitting action, since sources, affected States and public citizens that object to EPA permitting actions will be able to directly appeal those decisions to the Environmental Appeals Board.