has notified the permitting authority that the EPA will not object to issuance, whichever is first.

Title 129 provides for minor permit modification group processing which meets the Federal criteria. Specifically, any application for group processing must meet permit application requirements similar to those outlined in section 70.7(e)(3). The state's rules also provides for notifying the EPA and affected states of the requested permit modification within five working days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level.

Significant modification procedures are defined in a manner that parallels Federal provisions. Each agency's program description provides for completion of review of the majority of significant permit modifications within nine months after receipt of a complete

application.

- a. Permit reopenings. A permit is to be reopened and revised when additional applicable requirements become applicable to a major source with a remaining permit term of three or more years, and such a reopening is to be completed within 18 months after promulgation of the applicable requirement. In addition, the proceedings to reopen a permit will follow the same procedures that apply to initial issuance, will affect only those parts of the permit for which cause to reopen exists, and will ensure reopenings are made as expeditiously as practicable. The rule provides that at least 30 days' advance notice must be given to the permittee for reopenings, and that notice will be given of the intent to reopen the permit.
- b. Off-permit revisions. Both the state and city of Omaha have elected to not allow off-permit activities.
- (9) Compliance Tracking and Enforcement. The requirement for proposed compliance tracking and enforcement reporting has been met by both programs. Omaha will provide enforcement information to the state monthly. The state will then enter information for both agencies into the Aerometric Information Retrieval System. The proposed enforcement program will consist of source inspection, surveillance, response to complaints, permit application review, and enforcement responses. Proposed enforcement responses include permit modification, permit revocation, stipulation, administrative orders, injunctive relief, civil/criminal referral, and referral to the EPA.
- (10) Public Participation, EPA and Affected States Review. Both programs

ensure that all permit applications are available to the public. All requirements are included to ensure that each concerned citizen will be aware of proposed and final permit actions. This includes the commitment to keep a record of proceedings that will allow citizens to object to a permit up to 60 days after the EPA review period.

Title 129 contains rules that ensure mutual review by affected states and the EPA. Neither the state nor city of Omaha will issue a permit when it is objected to in accordance with § 70.8(c).

## 3. Fee Demonstration

The city of Omaha has elected to collect the presumptive minimum plus CPI in accordance with Part 70 to cover direct and indirect costs of developing and administering its program. The state has selected a fee in the amount of \$30.69 which is above the presumptive.

Each program is also required to demonstrate that fees collected under Title V will be used exclusively for the purpose of Title V. This is addressed by the state in Nebraska statute 81.1505.01, which states that any Title V fees collected will be deposited into a designated account with the State Treasurer. Furthermore, in 81.105.04 the State Legislature's Appropriations Committee will conduct an annual review to ensure that all funds have been accounted for appropriately. Omaha has established a separate accounting structure exclusively for Title V.

Part 70 also requires permitting authorities to submit periodic accounting reports to EPA. Upon further guidance by EPA, both agencies will be requested to submit these reports.

Each submittal included an inventory of sources and the amount of fees that it expects to collect in the first year from each source as part of their fee demonstration. The state anticipates approximately \$1,765,530 and the city of Omaha anticipates \$419,957. Each agency submitted year-to-year estimates of resources by major activities which adequately satisfies the four-year projection.

- 4. Provisions Implementing the Requirements of Other Titles of the Act
- (1) Acid rain. The legal requirements for an approval under the Title V operating permits program for a Title IV program were cited in guidance distributed on May 21, 1993, entitled "Title V—Title IV Interface Guidance for States." Each program has met the five major criteria of this guidance which include legal authority, regulatory authority, forms, regulatory revisions, and a commitment to acid

rain deadlines. 40 CFR part 72 is adopted by reference.

(2) Section 112. The specific Title V program approval criteria with respect to section 112 provisions are enumerated in a memorandum from John Seitz, Office of Air Quality Planning and Standards, dated April 13, 1993. The state and city of Omaha have met these criteria as described in the following topics:

a. Section 112(d), (f), and (h).—EPA Emissions Standards. Chapter 8 of Title 129 requires each permit to specify emission limitations and standards, including those operational requirements and limitations that ensure compliance with all requirements applicable at the time of permit issuance. If any applicable requirements have been promulgated at the Federal level, but not yet adopted by the state or Council, the director has specific regulatory authority to insert these applicable requirements into a permit on a case-by-case basis. Chapter 15 requires a permit to be reopened if a source becomes subject to an additional applicable requirement and has a remaining permit term of three

years or more.

b. General Provisions. The Seitz memorandum notes that the implementation of all current National Emission Standards for Hazardous Air Pollutants standards and future Maximum Achievable Control Technology (MACT) standards includes the implementation of any "general provisions" that EPA develops for these standards. Initial Title V approval must ensure that states will carry out these provisions as in effect at the time of any permit issuance or revisions. The EPA promulgated the general provisions in 40 CFR part 63, Subpart A on March 19, 1994 (59 FR 12407). The state and city of Omaha intend to adopt all applicable requirements. EPA thus considers that both programs have met this requirement.

c. Section 112 (g)—Case-by-Case MACT For Modified/Constructed and Reconstructed Major Toxic Sources. Both programs propose to require best available control technology for new and modified sources of air toxics. In the absence of any EPA guidance/ regulations defining case-by-case MACT procedures and methods for determining agency equivalency of Federal requirements at the time of agency program submittal, the respective submissions are adequate for the interim. Each agency intends to adopt Federal air toxic regulations expeditiously.

d. Section 112 (i)(5)—Early Reductions. Both programs have