monitoring requirements less stringent. Therefore, as a condition for full approval, the State must revise the administrative amendment procedure to delete the words "... or less..." from OAC 252:100–8–7(d)(1)(C).

The regulations do not define or specify the NSR procedures mentioned and therefore require clarification. The rule at 40 CFR 70.7(d)(1)(v) requires that the procedures used for enhanced NSR are substantially equivalent to the requirements of 40 CFR 70.7 and 40 CFR 70.8 that would be applicable to the change if it were subject to review as a permit modification, and has compliance requirements substantially equivalent to those contained in 40 CFR 70.6. Subchapter 7 has not been submitted as a SIP revision and the EPA will reserve comment on Subchapter 7 until it is submitted. Until the EPA has completed its review of the State Implementation Plan (SIP) revision and has approved it, the EPA expects that the State will interpret the term "enhanced" in OAC 252:100–8-7(d)(1)(E) consistent with the EPA's definition of that term, so that changes processed under the State's NSR program will be eligible for incorporation into the title V permit through administrative amendment only if those changes have been processed consistent with the requirements of 40 CFR 70.7(d)(1)(v), as explained above. Interpreted in this way, the State's program is eligible for interim approval.

Therefore, as a condition for full approval, the State must revise the regulations at OAC 252:100–8–7(d)(1)(E) to define or specify "Enhanced New Source Review procedures" and to submit a SIP revision for Subchapter 7 that reflects these procedures.

(e) Provisions for permit content are found at OAC 252:100-8-6. The State regulations contain all of the provisions at 40 CFR 70.6. The language in the State regulations is often verbatim with the rule. Adequate provisions are made for permit duration, permit shield, general permits, temporary sources, and emergency situations. The regulations at OAC 252:100-8(a)(3)(C)(iii)(I) define 'prompt'' reporting of exceedances as 24 hours after the occurrence. The provisions at OAC 252:100-8-6(a) include the phrase "To the extent practicable . . . " This phrase indicates that the State has discretion in what constitutes an applicable requirement. In order to receive full approval, the State must remove the phrase "to the extent practicable." Until this revision is made, the permits issued by the State shall meet the requirements of 40 CFR 70.6 and include all applicable requirements.

(f) Provisions for operational flexibility and alternative scenarios are listed at OAC 252:100–8–6(h). This section meets the requirements of 40 CFR 70.4(b)(12), 70.5(c)(7), and 70.6(a)(10).

(g) Provisions for compliance tracking and enforcement are described in Section VII of the submittal. The State commits to submit annual information concerning the State's enforcement activities in part A of this section. Attachment 42 contains an Inspection Protocol and Point Source Inspection Form. Attachment 48 is the latest Enforcement Memorandum of Agreement. Attachment 49 contains the Air Quality Program Enforcement Action Report. Attachment 50 contains a tracking list for Administrative Orders and Consent Orders. The AG Opinion discussed above outlines the State's authority to enforce all aspects of the program. These submission elements meet the requirements for compliance tracking and reporting at 40 CFR 70.4(b)(4)(ii) and (5). These submission elements meet the enforcement authority requirements at 40 CFR 70.4(b)(2), 70.4(b)(3)(vii), and 70.4(9).

The State of Oklahoma has the authority to issue a variance from requirements under Title 27A O.S. Supplement. 1993, Section 2–5–109. The EPA regards this provision as wholly external to the program submitted for approval under part 70, and consequently is proposing to take no action on this provision of State law. The EPA has no authority to approve provisions of State law, such as the variance provision referred to, which are inconsistent with the Act. The EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a federally enforceable part 70 permit, except where such relief is granted through the procedures allowed by part 70. A part 70 permit may be issued or revised (consistent with part 70 permitting procedures) to incorporate those terms of a variance that are consistent with applicable requirements. A part 70 permit may also incorporate, via part 70 permit issuance or modification procedures, the schedule of compliance set forth in a variance. However, the EPA reserves the right to pursue enforcement of applicable requirements notwithstanding the existence of a compliance schedule in a permit to operate. This is consistent with 40 CFR 70.5(c)(8)(iii)(C), which states that a schedule of compliance "shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based."

3. Permit Fee Demonstration

The regulations at OAC 252:100-8-9 specify an annual fee of \$25 per ton per year based on actual or allowable emissions at the facility as reflected in the emission inventory. This fee is based on 1995 dollars for the first year and will be adjusted each year afterward to reflect the difference between the Consumer Price Index (CPI) for the previous year to the CPI for 1989. The original submittal from the State did not contain a detailed fee analysis. Instead, the regulations at OAC 252:100-8-9(d)(1)(B) specify that the ODEQ must complete a detailed workload analysis mandated by State law to be conducted by an independent consultant with a review of the fee and adjustment of the fee as necessary. The State submitted the workload analysis and fee demonstration to the EPA for review on November 7, 1994. The formal submission to the program was made in a letter dated January 23, 1995, from the Executive Director of the ODEQ to the EPA. The fee demonstration recommends a fee of \$15.19 per ton in 1995 dollars and will be adjusted each year to the 1989 CPI as provided for in the regulations.

Though the fee reflected in the fee demonstration is less than the \$25 per ton fee listed in the Act, the State has shown that it will provide sufficient funding based on the applicable requirements in effect at the time of the program submittal. Based on the anticipated emissions, the State expects the \$15.19 per ton fee to generate over \$4,250,000 the first year. These funds will adequately pay for the anticipated costs of the program as demonstrated in the detailed workload analysis.

Therefore, based on its review, the EPA proposes approval for the fee structure and workload analysis of the Oklahoma part 70 program. The EPA solicits comment on the fee during the comment period for this proposed approval action and will respond to any comments before taking final action. The EPA is recommending approval of the \$15.19 per ton fee and deems the analysis and fee demonstration adequate in accordance with 40 CFR part 70.

## 4. Provisions Implementing the Requirements of Other Titles of the Act

The State of Oklahoma acknowledges that its request for approval of a part 70 program is also a request for approval of a program for delegation of unchanged section 112 standards under the authority of section 112(l) as they apply to part 70 sources. Upon receiving approval under section 112(l), the State may receive delegation of any new authority required by section 112 of the Act through the delegation process.