for comment and a hearing on EPA's proposed action.

G. Section 71.8—Affected State Review

Following the proposed revisions to part 70, proposed § 71.8 would implement section 505(a)(2) of the Act and require that the permitting authority provide notice to all affected States (as defined in proposed § 71.2) of each draft permit and addenda to permits that incorporate de minimis permit revisions. Under the proposed procedures for minor permit revisions, sources, rather than permitting authorities, would have the responsibility to provide notice to affected States for such changes. Affected States are those States whose air quality may be affected, and that are contiguous to, the State in which a part 71 permit, permit revision, or permit renewal is being proposed, or those within 50 miles of the source. Tribal areas or areas under the jurisdiction of a local air pollution control area may be considered affected States in some

Affected States that receive notice pursuant to proposed § 71.8 could submit written recommendations and comments to the permitting authority. If the permitting authority refuses to accept the recommendations, the reasons for the refusal would have to be provided in writing to the affected State(s) that provided the recommendations or comments during the public or affected State review period.

H. Section 71.9—Permit Fees

1. Authority to Impose Fees

The EPA believes that title V provides EPA the authority to charge sources fees whenever EPA is required to administer a part 71 program. Section 502(b)(3)(C)(i) of the Act provides that if EPA determines that the fee provisions of a State's part 70 program do not meet the requirements of title V, or if EPA determines that a permitting authority is not adequately administering or enforcing its approved fee program, EPA may, in addition to taking any other action authorized under title V, collect reasonable fees from the sources that should be paying adequate fees pursuant to an approved part 70 fee program. Thus, EPA has the discretion to charge fees whenever a State fails to establish an approvable fee program or fails to implement its approved fee program, even if there are no other deficiencies in the State's operating permits program. Section 502(b)(3)(C)(i) also provides that fees charged by EPA shall be designed solely to cover EPA's

costs of administering the provisions of the permits program promulgated by EPA.

2. Fee Calculation and Assessment

The fee schedule proposed in § 71.9 would establish a dollar per ton charge on actual emissions of each regulated pollutant (for fee calculation) that is emitted from a source.

Under the fee schedule in this proposal, the date of the initial fee submittal would be contingent upon several factors. If EPA withdraws approval of a part 70 program, initial part 71 fees would be due in accordance with a schedule based upon a source's primary SIC Code, as provided in proposed § 71.9(f)(1).

If EPA implements a part 71 program in an area that did not have a part 70 program in place, initial fee calculation work sheets and fees would be due at the same time the initial permit application is due, in accordance with the requirements of proposed § 71.5(b)(1).

Regardless of whether a part 70 program preceded a part 71 program, sources that become subject to the part 71 program after the part 71 program's effective date would be required to submit initial fee calculation work sheets and fees at the same time the initial permit application would be due, in accordance with the requirements of proposed § 71.5(b)(1).

Sources would be allowed to pay their initial annual fee in two installments. The first payment equalling one-third of the annual fee would have to be submitted along with the initial fee calculation worksheet. The balance would be due four months later, but in no event later than a year after the program's effective date.

As provided in proposed § 71.9(g), for sources that receive a part 71 permit as a result of an EPA veto of the State's proposed part 70 permit (as provided in proposed § 71.4(e)), the initial fee calculation work sheet and fees would be due 3 months after the date the part 71 permit is issued. Delaying the source's fee payment in this manner would provide the State an opportunity to issue a permit that satisfies EPA's objection, thereby relieving sources of the burden of paying both State and Federal permit fees. However, such sources would not be permitted to pay fees in installments because their obligation to pay fees arises after EPA has completed the permit issuance process.

For sources that commenced operation during the calendar year preceding the date on which a source's initial application is due, the initial fee

calculation would be based on an estimate of the current calendar year's actual emissions. This estimated fee would be adjusted in the first annual emission report. In addition, sources that would be required to submit initial fee calculation work sheets and fees between January 1 and March 31, as required by either proposed § 71.9(f)(1) or § 71.9(g), would have the option of basing their initial fee calculation on an estimate of the preceding calendar year's actual emissions. This provision would provide sources with a means for meeting the initial fee submittal requirements if their initial fee submittal date does not provide for sufficient time to calculate the previous calendar year's actual emissions. This estimation would also have to be reconciled in the first annual emission report.

For purposes of subsequent annual emissions reporting and fee assessments, the date (month and day) on which the initial part 71 fee calculation work sheet and fees were due would be considered the "anniversary date" for that source. Each source would be required to submit an annual report of its actual emissions for the preceding calendar year by its anniversary date. However, to allow sources with anniversary dates between January 1 and March 31 the time needed to analyze the preceding calendar year's emissions data, the anniversary date for these sources would be April 1. The annual report would have to include a fee calculation work sheet and full

As discussed above, sources that commenced operation during the preceding calendar year would base their initial fee calculation on an estimate of the current calendar year's actual emissions. When the permitting authority receives the first annual emissions report, the permitting authority would compare the estimate to the emissions report and would adjust the initial fee to reflect the annual emissions listed in the report. If an additional fee is required, payment would be due with the submittal of the annual emissions report. If the source has overpaid, the permitting authority would credit the source's account. Regardless of this adjustment procedure, the source would be required to pay its current emissions fee based on the actual emissions listed in the first annual emissions report.

Sources subject to proposed § 71.9(f)(1) or § 71.9(g) that have initial application and fee calculation work sheets due between January 1 and March 31 could opt to base their initial fee on an estimate of the past year's