- (2) Each remittance shall be sent to the Environmental Protection Agency to the address designated on the fee calculation work sheet or the invoice.
- (l) Penalty and interest assessment. (1) The permitting authority shall assess interest on payments which are
- assess interest on payments which are received later than the date due. The interest rate shall be the sum of the Federal short-term rate determined by the Secretary of the Treasury in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986, plus 3 percentage points.

(2) The permitting authority shall assess a penalty charge of 50 percent of the fee amount if the fee is not paid within 30 days of the payment due date.

- (3) Part 71 sources shall be assessed a penalty of 50 percent on underpayments computed under paragraph (h)(3) of this section when the underpayment is in excess of 20 percent of the initial estimated fee amount and interest as computed under paragraph (l)(1) of this section on that portion of the underpayment in excess of 20 percent of the initial fee amount.
- (m) Failure to remit fees. The permitting authority shall not issue a final permit or permit revision until all fees, interest and penalties assessed against a source under this section are paid. The initial application of a source shall not be found complete unless the source has paid all fees owed.

(n) Adjustments of fee schedules.

- (1) The fee schedules provided in paragraphs (c)(1) through (c)(4) of this section shall remain in effect until December 31, 1996. Thereafter, the fee schedules shall be changed annually by the percentage, if any, of any annual increase in the Consumer Price Index.
- (2) Part 71 permit program costs and fees will be reviewed by the Administrator at least every two years, and changes will be made to the fee schedule as necessary to reflect permit program costs.

(3) When changes to a fee schedule are made based on periodic reviews by the Administrator, the changes will be published in the **Federal Register** as a rule.

(o) *Use of revenue.* All fees, penalties, and interest collected under this part shall be deposited in a special fund in the U.S. Treasury, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the activities required by this part.

§71.10 Delegation of part 71 program.

(a) Delegation of part 71 program. The Administrator may delegate, in whole or in part, with or without signature authority, the authority to administer a

part 71 operating permits program to a State, eligible Tribe, local, or other non-State agency in accordance with the provisions of this section. In order to be delegated authority to administer a part 71 program, the delegate agency must submit a legal opinion from the Attorney General from the State, or the attorney for the State, local, interstate, or eligible Tribal agency that has independent legal counsel, stating that the laws of the State, locality, interstate compact or Indian Tribe provide adequate authority to carry out all aspects of the delegated program. A **Delegation of Authority Agreement** (Agreement) shall set forth the terms and conditions of the delegation, shall specify the provisions that the delegate agency shall be authorized to implement, and shall be entered into by the Administrator and the delegate agency. The Agreement shall become effective upon the date that both the Administrator and the delegate agency have signed the Agreement. Once delegation becomes effective, the delegate agency will be responsible, to the extent specified in the Agreement, for administering the part 71 program for the area subject to the Agreement.

(b) Publication of Delegation of Authority Agreement. The Agreement shall be published in the **Federal**

Register.

(c) Revision or revocation of Delegation of Authority Agreement. An Agreement may be modified, amended, or revoked, in part or in whole, by the Administrator after consultation with the delegate agency.

(d) Transmission of information to the Administrator.

- (1) When a part 71 program has been delegated in accordance with the provisions of this section, except as provided by § 71.7(a)(1)(v), the delegate agency shall provide to the Administrator a copy of each application for a permit, permit renewal, or permit revision (including any compliance plan, or any portion the Administrator determines to be necessary to review the application and permit effectively), each proposed permit, and each final part 71 permit.
- (2) The applicant may be required by the delegate agency to provide a copy of the permit application (including the compliance plan) directly to the Administrator.
- (3) Upon agreement with the Administrator, the delegate agency may submit to the Administrator a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent

practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.

(e) Retention of records. The records for each draft, proposed, and final permit, and application for permit renewal or revision shall be kept for a period of 5 years by the delegate agency. The delegate agency shall also submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the delegate agency is implementing, administering, and enforcing the delegated part 71 program in compliance with the requirements of the Act and of this part.

(f) Prohibition of default issuance.

(1) For the purposes of Federal law and title V of the Act, when a part 71 program has been delegated in accordance with the provisions of this section, no part 71 permit (including a permit renewal or revision) will be issued until affected States have had an opportunity to review the draft permit as required pursuant to § 71.8(a) and EPA has had an opportunity to review

the proposed permit.

(2) To receive delegation of signature authority, the legal opinion submitted by the delegate agency pursuant to paragraph (a) of this section shall certify that no applicable provision of State, local or Tribal law requires that a part 71 permit or renewal be issued after a certain time if the delegate agency has failed to take action on the application (or includes any other similar provision providing for default issuance of a permit), unless EPA has waived such review for EPA and affected States. Notwithstanding this prohibition on default permit issuance, permits may be revised on a default basis pursuant to the procedures in §71.7 (e) and (f).

(g) EPA objection.

- (1) No permit for which an application must be transmitted to the Administrator under paragraph (d)(1) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information. When a part 71 program has been delegated in accordance with the provisions of this section, failure of the delegate agency to do any of the following shall constitute grounds for an objection by the Administrator:
- (i) Comply with paragraph (d) of this section;
- (ii) Submit any information necessary to review adequately the proposed permit;
- (iii) Process the permit under the procedures required by §§ 71.7 and 71.11;