of this language is not necessary and would draw attention away from the specific requirements that the source must comply with on a day-to-day basis. MPCA feels that inclusion of this language could lead to ''confusion'' at the source as to what conditions actually apply. Finally, MPCA is concerned that EPA intends to require the State to include provisions of 70.6(a) that would not apply to all part 70 sources, such as the provisions at 70.6(a)(4) which would apply only to acid rain sources, in all part 70 permits.

EPA's September 13, 1994, proposal only requires the State to expressly state in every permit those provisions of section 70.6(a) which are found in Minnesota Rules 7007.0800, subpart 16. Specifically, these are the provisions of sections 70.6(a) (5) and (6), which are found in 7007.0800, subpart 16 (A)–(F) of Minnesota's rules. These general provisions apply to all part 70 sources. Therefore, the State's concern that it would be required to include permit terms that do not apply to certain sources in the sources' part 70 permit is unwarranted. Further, EPA fails to see how the express statement of general requirements applicable to all permittees will result in confusion. In fact, it is EPA's position that the express statement of all applicable permit conditions in the permit assists the source in understanding all permit requirements, assures the enforceability of the permit, and is not burdensome.

The State's plan to incorporate by reference general permit conditions may actually hamper the enforceability of those conditions. Because EPA will not incorporate Minnesota's rules by reference for part 70 program approvals, only the part 70 permit, and not the actual rules, would be federally enforceable. Therefore, EPA would only be able to enforce those conditions that are expressly stated in the permit. Further, EPA is concerned that the failure to clearly state permit conditions precludes ''fair warning'' of the permit requirements, and could be the basis for a dismissal.

5. Fees

In the September 13, 1994, notice, EPA proposed to require the State of Minnesota to ''revise the definition of regulated pollutant at Minnesota Rules 7002.0035 to include 'any regulated pollutant for presumptive fee calculation' as defined at 40 CFR 70.2, or submit a detailed fee demonstration.'' One comment was received from the MPCA. MPCA agrees that the fee rule does not collect the presumptive minimum; however, MPCA pointed out that the presumptive minimum can be met without charging for all ''regulated pollutants'' under the Federal definition. EPA agrees with MPCA. 40 CFR 70.9(b)(2) only requires the collection of an amount equivalent to $25 + consumer price index per ton of ''regulated pollutant for presumptive fee calculation,'' to meet the presumptive minimum. Therefore, this requirement will be revised to reflect this comment.

6. Timelines for Permit Issuance

EPA received one comment from MPCA on the proposal to require MPCA to change its deadline for permit issuance on minor and moderate permit amendments from 180 days to 90 days after receipt of an application. In the proposal EPA stated that both types of permit amendments seemed to fall under the minor modification procedures of part 70, which requires final action within 90 days after receipt of an application. MPCA argues that 40 CFR 70.7(e)(1) allows States to ''develop different procedures for different types of modifications depending on the significance and complexity of the requested modification'' provided that the procedures do not provide for less permitting authority or review by EPA and affected States, and that this is what it has done by creating minor and moderate permit amendment categories. In addition, MPCA argues that by increasing the review time from 90 days to 180 days, the State has increased the likelihood of meaningful State and Federal review of permit applications.

According to 40 CFR 70.7(e)(1), a State must ''provide adequate, streamlined, and reasonable procedures for expeditiously processing permit modifications.'' The State may meet this requirement by adopting the procedures set forth in 40 CFR 70.7(e), or procedures that are ''substantially equivalent.'' EPA does not consider the State's minor permit amendments to be substantially equivalent to the minor modification procedures of part 70 because of the timeline for acting on minor permit amendment applications. Although additional time might allow the State to have a more meaningful review, it would also allow a source that had applied for a minor permit amendment, but did not qualify for a minor permit amendment, an extra 90 days of operation before submitting the proper application. For this reason, EPA is requiring MPCA to take action on minor permit amendments within 90 days of receipt of a complete application.

Part 70 does allow a State to develop additional procedures for different types of modifications as long as the procedures do not provide for less permitting authority, EPA or affected State review, or public participation, than is provided for in part 70. Minnesota has done this with its moderate permit amendment procedures. MPCA has allowed 180 days to take final action on moderate permit amendment applications; however, the source is not allowed to operate under that change until the State has approved the change. Therefore, EPA has decided that this type of change does meet all requirements of part 70, and EPA will not require a change with respect to moderate permit amendments as proposed in the September 13, 1994 notice.

7. Section 112(g) of the Clean Air Act

In its proposed approval of Minnesota's part 70 program, EPA also proposed to approve Minnesota's preconstruction review program for the purpose of implementing section 112(g) during the transition period before a Federal rule had been promulgated implementing that section 112(g). This proposal was based in part on an interpretation of the Act that would require sources to comply with section 112(g) beginning on the date of approval of the title V program, regardless of whether EPA had completed its section 112(g) rulemaking. The EPA has since revised this interpretation of the Act in a **Federal Register** notice published on February 14, 1995. 60 FR 8333. The revised interpretation postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The revised notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow States time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Minnesota must be able to implement section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations.

For this reason, EPA is finalizing its approval of Minnesota's preconstruction review program. This approval clarifies that the preconstruction review program is available as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption