activities or units that are exempted will not exceed five tons per year for criteria pollutants, and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAPs.

In addition, several of the specific exemptions in Rule 62–210.300(3), F.A.C. must either be removed from the rule or revised as a condition of full approval. Specifically, Rule 62–210.300(3)(a), F.A.C. exempts ''[s]team and hot water generating units located within a single facility and having a total heat input, individually or collectively, equaling 50 million BTU/hr or less, and fired exclusively by natural gas except for periods of natural gas curtailment during which fuel oil containing no more than one percent sulfur is fired * * *'' However, during the periods fuel oil is fired, these sources could potentially emit sulfur dioxide in excess of major source thresholds. Since the potential emissions from these sources would not be ''insignificant,'' this exemption must be removed from Rule 62–210.300(3), F.A.C. as a condition of full approval.

Rule 62–210.300(3)(r), F.A.C. exempts ''[p]erchloroethylene dry cleaning facilities with a solvent consumption of less than 1,475 gallons per year.'' However, at the annual consumption rate of 1,475 gallons of perchloroethylene, these facilities could potentially emit over eight tons per year of perchloroethylene. Since the potential HAPs emissions from these sources is not ''insignificant,'' this exemption must be removed from Rule 62–210.300(3), F.A.C. as a condition of full approval.

Rule 62–210.300(3)(u), F.A.C. exempts ''[e]mergency electrical generators, heating units, and general purpose diesel engines operating no more than 400 hours per year * * *'' These sources could potentially have emissions in excess of major source thresholds, depending on the fuel used and the unit's size. Since the potential emissions from these sources would not be ''insignificant,'' this exemption must be removed from Rule 62–210.300(3), F.A.C. as a condition of full approval.

Rule 62–210.300(3)(x), F.A.C. exempts ''[p]hosphogypsum disposal areas and cooling ponds.'' This exemption potentially includes phosphogypsum stacks, which emit radon and are subject to the radionuclide National Emissions Standards for Hazardous Air Pollutants (NESHAPS) found in 40 CFR 61, Subpart R. Therefore, as a condition of full approval, this exemption must be revised to exclude phosphogypsum stacks.

Rule 62–4.040(1)(b), F.A.C., allows Florida to determine insignificant activities on a case-by-case basis during the permitting process. As a condition of full approval, the State must revise Rule 62–4.040(1)(b), F.A.C. to provide that (1) no insignificant activities or emissions units subject to applicable requirements (as defined in Rule 62–213.200(6), F.A.C.) will be exempted from title V permitting requirements; (2) no insignificant activities or emissions units exemptions will be used to lower the potential to emit below major source thresholds; and (3) emissions thresholds for individual activities or units that are exempted will not exceed five tons per year for criteria pollutants, and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAPs.

Florida's program, in Rules 62–4.130, 62–4.160, 62–210.700, 62–213.410, and 62–213.440, F.A.C., substantially meets the requirements of 40 CFR 70.4, 70.5, and 70.6 for permit content (including operational flexibility). The State's program does not provide for off-permit changes as described in 40 CFR 70.4(b)(14).

Part 70 requires prompt reporting of deviations from the permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define ''prompt'' in relation to the degree and type of deviation likely to occur and the applicable requirements. Although the permit program regulations should define ''prompt'' for purposes of administrative efficiency and clarity, an acceptable alternative is to define ''prompt'' in each individual permit. EPA believes that ''prompt'' should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given this is a distinct reporting obligation under section 70.6(a)(3)(iii)(A). Where ''prompt'' is defined in the individual permit but not in the program regulations, EPA may veto permits that do not contain sufficiently prompt reporting of deviations.

Florida has not defined ''prompt'' in its program with respect to the reporting of deviations. Rule 62–213.440(1)(b)3.b., F.A.C., requires reporting, in accordance with the requirements of Rules 62–210.700(6) and 62–4.130, F.A.C., of deviations from permit requirements. Rule 62–210.700(6), F.A.C., requires notification in accordance with Rule 62–4.130, F.A.C. Rule 62–4.130, F.A.C., requires immediate notification ''if the permittee is temporarily unable to comply with any of the conditions of the permit due to breakdown of equipment or destruction by hazard of fire, wind or by other cause.'' This requirement is reiterated in Rule 62–4.160(8), F.A.C., which is a general condition of each permit that extends the requirement to include immediate reporting if, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in the permit. Florida has stated that ''immediately'' is not reasonably interpreted to mean a time beyond the next workday.

Florida has the authority to issue variances from requirements imposed by State law. Rule 62–103.100, F.A.C., allows Florida discretion to grant relief from compliance with State statutes and rules. EPA regards this provision as wholly external to the program submitted for approval under part 70, and consequently proposes to take no action on this provision of State law. EPA has no authority to approve provisions of state law, such as the variance provision referred to, that are inconsistent with title V. 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, 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.''

Florida's program, in Rules 62–210.360, 62–213.400, 62–213.412, 62–213.420, and 62–213.430, F.A.C., substantially meets the permit processing requirements of 40 CFR 70.7 (including minor permit modifications) and 70.8. However, the State's regulations do not provide for permit reopenings for cause consistent with 40 CFR 70.7(f)(1)(i), (iii), and (iv). As a condition of full approval, the State's program must provide the following: (1)