if a permit is reopened and revised because additional applicable requirements become applicable to a major source with a remaining permit term of 3 or more years, such a reopening shall be completed within 18 months after promulgation of the applicable requirement; (2) a permit shall be reopened and revised if EPA or the State determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; and (3) a permit shall be reopened if EPA or the State determine that the permit must be revised or revoked to assure compliance with the applicable requirements.

The public participation requirements of 40 CFR 70.7(h) were addressed in Rules 62–103.150, 62–210.350, 62–213.430, and 62–213.450, F.A.C. The program also, in Sections 403.131, 403.141, and 403.161 of the Florida Statutes (F.S.), substantially meets the requirements of 40 CFR 70.11 with respect to enforcement authority.

The aforementioned TSD contains the detailed analysis of Florida's program and describes the manner in which the State's program meets all of the operating permit program requirements of 40 CFR part 70.

3. Permit Fee Demonstration

Section 502(b)(3) of the Act requires each permitting authority to collect fees sufficient to cover all reasonable direct and indirect costs necessary for the development and administration of its title V operating permit program. Each title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that aggregate fees collected from title V sources meet or exceed $25 per ton of emissions per year (adjusted from 1989 by the Consumer Price Index (CPI)). The $25 per ton is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the ''presumptive minimum.''

The State of Florida has elected to assess a title V operating permit fee below the Federal presumptive minimum fee amount. The State's program submittal, therefore, included a detailed fee demonstration in accordance with 40 CFR 70.9(b)(5). The fee demonstration showed that the fees collected will adequately cover the anticipated costs of the operating permit program for the years 1995 through 1999.

In Rule 62–213.205, F.A.C., the State established a 1995 license fee for title V sources of $25 per ton of each regulated air pollutant allowed to be emitted annually. Rule 62–213.205(1)(a), F.A.C., provides that the license fee may be increased beyond $25 per ton in years succeeding 1995 if the Secretary of FDEP finds that a shortage of revenue will occur in the absence of a fee adjustment. The State asserts that since one of the program's mandates is that it be self-supporting, it is expected that the Secretary's discretionary power will be exercised as the need arises to adjust the fee accordingly.

The program activities that will constitute the State's title V operating permit program are consistent with the activities described in 40 CFR 70.9(b)(1). Rule 62–213.205(3), F.A.C., provides that an audit of the State's operating permit program will be conducted 2 years after EPA has given full approval of the program or by December 31, 1996, whichever comes later, to ascertain whether the annual fees collected are used solely to support reasonable direct and indirect costs of the title V program. After the first audit, the program will be audited biennially. And though Rule 62–213.205(1)(a), F.A.C., provides that the annual fee may not exceed $35 per ton without legislative approval, Florida has assured EPA that it will seek legislative action to raise the fee amount above the $35 per ton limit if it becomes necessary.

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

a. *Authority for section 112 implementation.* In its program submittal, Florida demonstrates adequate legal authority to implement and enforce all section 112 requirements through the title V permit. This legal authority is contained in the Florida Statutes (i.e., Section 403.0872), and in the Florida Administrative Code in regulatory provisions defining ''applicable requirements'' and stating that permits must address all applicable requirements. Moreover, Florida has initiated rulemaking to clearly state that each permit shall incorporate all applicable requirements for the title V source. EPA has determined that this legal authority is sufficient to allow the State to issue permits that assure compliance with all section 112 requirements.

EPA is interpreting the above legal authority to mean that Florida is able to carry out all section 112 activities with respect to part 70 and non-part 70 sources. For further rationale on this interpretation, please refer to the TSD.

b. *Implementation of section 112(g) upon program approval.* EPA issued an interpretive notice on February 14, 1995 (60 FR 8333), which outlines EPA's revised interpretation of section 112(g) applicability. The notice postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretative notice explains that EPA is 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), Florida must have a Federally enforceable mechanism for implementing section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations.

EPA is aware that Florida lacks a program designed specifically to implement section 112(g). However, Florida does have a preconstruction review program that can serve as an adequate implementation vehicle during the transition period because it would allow the State to select control measures that would meet the maximum achievable control technology (MACT), as defined in section 112, and incorporate these measures into a Federally enforceable preconstruction permit.

For this reason, EPA proposes to approve the use of Florida's preconstruction review program found in Rule 62–212, F.A.C., under the authority of title V and part 70, solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between section 112(g) promulgation and adoption of a State rule implementing EPA's section 112(g) regulations. Although section 112(l) generally provides authority for approval of state air programs to implement section 112(g), title V and section 112(g) provide for this limited approval because of the direct linkage between the implementation of section 112(g) and title V. The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purpose of any other provision under the Act (e.g., section 110). This approval will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. The duration of this approval is limited to 18 months following promulgation by EPA of the section 112(g) rule to provide