

for criteria pollutants to be a compelling reason for granting this type of interim approval. Further, the revised transition plan demonstrates that all part 70 sources will be permitted on a schedule that substantially meets the requirements of part 70.

The EPA is therefore proposing to grant Oklahoma source category-limited interim approval. Source category-limited interim approval will allow Oklahoma to implement the revised transition schedule to permit all part 70 sources during the transition period after the permit regulations have been revised. As a condition of this interim approval, the State must revise the regulations at OAC 252:100-8-7(a)(5)(A) and OAC 252:100-8-5(b)(2) to reflect the new transition schedule for permitting existing sources consistent with the rule at 40 CFR part 70. For full part 70 approval, the ODEQ will be required to revise its permit regulations so no source or portion of a source which would be defined as a major under 40 CFR 70.2 will be exempt from part 70 requirements because the emissions of an oil or gas unit have not been aggregated. Additionally, the State must formally request source category-limited interim approval under the Governor's signature because this approval action requires the regulatory changes outlined above. This formal request under the Governor's signature must be received by the EPA before this approval action can be published as final in the **Federal Register**.

The regulations at OAC 252:100-8-3(e) address insignificant activities. Emissions of one pound per hour of criteria pollutants or emissions of toxic pollutants less than the de minimis listed at OAC 252:100-41-43(a)(5) are considered insignificant. Further, the State regulations consider increases in potential to emit at a facility to be insignificant if the increase is less than 10% of the permit limit or 10% of the facility's baseline potential to emit. This insignificant level is available to any permit action (modification or renewal) and must be identified in the application. Emissions of 1 lb/hr based on the source's potential to emit are reasonable. However, to consider a percentage change in the potential to emit or a permit limit as insignificant is not reasonable. As the regulations are currently written, a permitted source could exceed a permit limit by 10% without liability. Also, 10% of a high permit limit could mask a permit modification from preconstruction review. For these reasons, the language at OAC 252:100-8-3(e)(3) must be revised to delete the allowance of any percentage of the permit limit or change

in the potential to emit as an insignificant emission level. Further, the language at OAC 252:100-8-3(e)(1) must be amended to base the 1 lb/hr insignificant emissions level on the source's potential to emit.

The ODEQ will maintain a list of insignificant activities that need not be quantified on the application as well as a list of activities the Department considers to be "trivial." Trivial activities are not required to be identified on the application. The Federal rule at part 70 allows a list of insignificant activities and emission levels which need not be included in permit applications be submitted as part of a State's part 70 program, and approved by the Administrator. However, the list of insignificant activities and the list of trivial activities mentioned in the State regulations were not submitted as part of the part 70 program, and part 70 does not allow for the substitution of the State permitting authority's approval for the Administrator's approval, which is required by 40 CFR 70.5(c). Furthermore, 40 CFR 70.5(c) clarifies that if the insignificant activities are exempted because of size or production rate, a list of these insignificant activities must be included in the application. Therefore, for full part 70 approval, the regulations at OAC 252:100-8-3(e) must be revised to reflect the requirements at 40 CFR 70.5(c).

The State's insignificant emissions levels will allow for an emissions threshold that could allow significant emissions to avoid appearing on the application. As a condition of full approval, the State must amend the language at OAC 252:100-8-3(e) so that the insignificant emissions rate of 1 lb/hr for criteria pollutants will be based on potential to emit instead of actual emissions. Additionally, the language at OAC 252:100-8-3(e)(3) must be revised to delete the allowance of any percentage of the permit limit or change in the potential to emit as an insignificant emission level. An application may not omit information needed to determine the applicability of, or to impose any applicable requirement, or to evaluate the fee amount required. Further, any list of insignificant activities or trivial activities must be approved by the EPA prior to its use.

(b) Provisions to determine complete applications are listed at OAC 252:100-8-5(d) and 5(b)(8). Complete application forms, model permit forms, permit reporting forms, and instructions are located in Attachments 39, 40, 41, and 42. These application forms may be

amended without rulemaking to facilitate changes required by new applicable requirements. These provisions meet the requirements of 40 CFR 70.5 (a)(2) and (c).

(c) Provisions for public participation are found at OAC 252:100-8-7(i) and review by the EPA and affected States at OAC 252:100-8-8. The State regulations provide for adequate public participation and notice to affected States for permit issuance, renewals, and reopenings. The regulations provide standing only for those who have provided written comments during public review. The State must clarify that judicial review is available to all affected parties for all final permit actions including minor modifications and administrative amendments. As a condition of full approval, the provision at OAC 252:100-8-7(j) must be clarified to assure that all final permit actions are subject to judicial review.

The regulations at OAC 252:100-8-7(i)(1)(E) and at OAC 252:100-8-7(j)(2)(A) provide standing for written comments only during public review. As a condition of full approval, these provisions in the regulations must be revised to delete the word "written," thus providing standing for oral comments during the public participation process. With these required changes, the provisions meet the requirements of 40 CFR 70.7(h).

(d) The rule at 40 CFR 70.7(e)(2)(i) specifies criteria for minor permit modifications. These criteria are adequately incorporated in the State regulations at OAC 252:100-8-7(e)(1)(A). These provisions are more stringent than the rule at 40 CFR 70.7(e) because they include State-only requirements as well as federally enforceable requirements. The provisions at OAC 252:100-8-7(e) meet the requirements at 40 CFR 70.7(e).

The EPA has noted two deficiencies in the administrative amendments procedure at OAC 252:100-8-7(d). This procedure is designed to make simple changes to the permit that do not require public, affected State, or EPA review. The rule at 40 CFR 70.7(d)(1)(iii) allows administrative amendments to be used to require more frequent monitoring at the facility. The regulations at OAC 252:100-8-7(d)(1)(C) allow "... more or less ..." frequent monitoring. Also, OAC 252:100-8-7(d)(1)(E) allows changes processed under Subchapter 7 using enhanced New Source Review (NSR) procedures to be incorporated into the operating permit under an administrative amendment.

The administrative amendment procedure cannot be used to make the