The State also has the option at any time to request, under section 112(l) of the Act, delegation of section 112 requirements in the form of State regulations which the State demonstrates are equivalent to the corresponding section 112 provisions promulgated by the EPA. At this time, the State plans to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 requirements into its regulations.

The radionuclide National Emission Standard for Hazardous Air Pollutants (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of "major" for radionuclide sources. Therefore, until a major source definition for radionuclides is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. The EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.

Section 112(g) of the Act requires that, after the effective date of a permits program under title V, no person may construct, reconstruct or modify any major source of hazardous air pollutants unless the State determines that the maximum achievable control technology (MACT) emission limitation under section 112(g) will be met. Such determination must be made on a caseby-case basis where no applicable limitations have been established by the Administrator. During the period from the title V effective date to the date the State has taken appropriate action to implement the final section 112(g) rule (either adoption of the unchanged Federal rule or approval of an existing State rule under 112(l)), Oklahoma intends to implement section 112(g) of the Act through the State's preconstruction process.

The State of Oklahoma commits to appropriately implementing and enforcing the existing and future requirements of sections 111, 112 and 129 of the Act, and all MACT standards promulgated in the future, in a timely manner.

The regulations at OAC 252:100-8-6(i) provide for the permitting of acid rain sources. The EPA commented on these regulations on October 1, 1993, and recommended that the State incorporate by reference the Federal acid rain permit requirements. The State has agreed to change OAC 252:100-8-

6(i) to incorporate by reference the acid rain permit requirements and has drafted this revision as an emergency rule. The State must submit this regulatory revision for incorporation by reference of the acid rain permitting rules before this approval action can be published as final in the **Federal Register**.

5. Enforcement Provisions

The State describes compliance tracking and enforcement under Section VII of the submittal. Oklahoma commits to submit annual information concerning the State's enforcement activities in part A of this section. As required at 40 CFR 70.4(b)(4)(ii) and 70.4(b)(5), the Enforcement Memorandum of Understanding, signed by the State and the EPA on July 22, 1993, appears in the submittal as Attachment 48. Attachment 42 contains an Inspection Protocol and Point Source Inspection Form. Attachment 49 contains the Air Quality Program Enforcement Action Report. Attachment 50 contains a tracking list for Administrative Orders and Consent Orders. The AG Opinion discussed above outlines the State's authority to enforce all aspects of the program. This statement of authority is required at 40 CFR 70.4(b)(3)(vii).

The compliance tracking and enforcement information in the submittal serves to describe the current processes in place to track air permits and conduct enforcement actions. These elements meet the requirements for compliance tracking and reporting at 40 CFR 70.4(b) (4)(ii) and (5). Further, these elements meet the enforcement authority requirements at 40 CFR 70.4(b)(2), 70.4(b)(3)(vii), and 70.4(9).

6. Technical Support Document

The results of this review will be shown in a document entitled "Technical Support Document," which will be available in the docket at the locations noted above. The technical support documentation shows that all operating permits program requirements of 40 CFR part 70 and relevant guidance were met by the submittal with the exception of those requirements described below.

7. Summary

The State of Oklahoma submitted to the EPA, under a cover letter from the Governor, the State's operating permits program on January 7, 1994. The submittal has adequately addressed all sixteen elements required for full approval as discussed in part 70 with the exception of the issues described in section B below. The State of Oklahoma addressed appropriately all requirements necessary to receive source category-limited interim approval of the State operating permits program pursuant to title V of the Act, 1990 Amendments and 40 CFR part 70. The EPA is proposing source category-limited interim approval for the part 70 program submittal for the State of Oklahoma.

B. Options for Approval/Disapproval and Implications

The EPA is proposing to grant source category-limited interim approval to the operating permits program submitted by the State of Oklahoma on January 7, 1994. Interim approvals under section 502(g) of the Act do not create any new requirements, but simply approve requirements that the State is already imposing.

If promulgated, the State must make the following changes to receive full approval:

(1) Criminal Penalty Cap

As discussed in section A.1 above, the State must provide a supplemental Attorney General's Opinion to clarify the implementation of the criminal penalty statute in such a way that preserves the integrity of the Act. This supplement must be submitted to the EPA before final action on this proposal is taken.

(2) Definition of "Major Source"

As discussed in section A.2.a above, the State must revise OAC 252:100–8–2, "major source" by deleting paragraph (4). This revision will make the definition consistent with the rule at part 70. Also, the State must revise the regulations to reflect the transition schedule proposed for source category-limited interim approval.

(3) Revision of Insignificant Activities

As discussed in section A.2.a above, 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. Further, the language at OAC 252:100-8-3(e)(3) must be revised to delete the allowance of any percentage of a permit limit or change in the potential to emit as an insignificant emission level. Also, 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, as required at 40 CFR 70.5(c).