violations of program requirements by permitted sources. The Texas enforcement provisions are contained in the Texas Clean Air Act (TCAA) and are discussed in the Attorney General's Opinion. Pursuant to 40 CFR 70.11(a)(3)(ii), the permitting authority shall have the authority to recover penalties against any person who knowingly violates any applicable requirement, any permit condition, or any fee or filing requirement. These fees shall be recoverable in a maximum amount of not less than \$10,000 per day per violation. The TCAA contains provisions which exceed the \$10,000 per day per violation for all cases except for the filing fee criminal enforcement provision. This filing fee provision contained in section 382.092 of the TCAA imposes a penalty for failing to pay a required fee which is punishable 'for an individual by a fine of not more than twice the amount of the required fee, confined in jail not to exceed 90 days, or both fine and confinement and, for a corporation or association, by a fine of not more than twice the amount of the required fee." The preamble to part 70 regulation recommends that State enforcement authorities consider as criminal penalties not only fines, but also incarceration, so that State prosecutors will have more inducement to prosecute environmental crimes. Because this provision imposes a range of fines, confinement in jail, and imprisonment, the EPA is proposing to accept that the TCAA meets the criminal enforcement provisions of part 70. The EPA believes the filing fee provision achieves the goal and intent of 40 CFR part 70. The EPA is soliciting comments on the proposed position.

Texas' operating permits program submittal adequately addressed the enforcement requirements of 40 CFR 70.4(b)(4) and 70.4(b)(5) in Volume 1 and the supplemental volume. The submittal contains permit program documentation such as draft copies of the permit forms, application forms, public notice forms, certification forms, and compliance/enforcement reporting forms. Monitoring requirements are contained in this guidance material including the types of monitoring used to demonstrate compliance. However, this guidance may be subject to change once the part 64 enhanced monitoring rules are promulgated. The enforcement program is described in the document Guidance on Compliance and Enforcement Matters" found in attachment IV of the State's submittal. Volume 1 contains a complete description of the State's compliance tracking and enforcement program

which includes an agreement between the State and the EPA, entitled "Fiscal Year 1993 Memorandum of Understanding between the Texas Air Control Board and the U.S. Environmental Protection Agency."

## 6. Summary

The State of Texas submitted to the EPA its operating permits program, requesting the EPA to grant interim approval to the Texas operating permits program. The submittal has been reviewed for adequacy to meet the requirements of 40 CFR part 70 (1992). The results of this review are included in the technical support document, which will be available at the docket at the locations noted above. The submittal has adequately addressed all 11 elements required for interim approval as discussed in the part 70 regulation. However, the EPA has in this notice described inconsistencies between the Texas permit regulation and the part 70 regulation. These inconsistencies involve both the permit regulation and program implementation, with regard to applicability, permit application requirements, and permit issuance and revision. It is essential that these inconsistencies be remedied by the State consistent with the Act and 40 CFR part 70 prior to the EPA granting full approval of the State's operating permits program.

Due to pending litigation involving sections of 40 CFR part 70, the part 70 regulation may be revised. Any final revisions may require the State to make regulatory and statutory changes.

The State of Texas addressed all requirements necessary to receive interim approval of the State operating permits program pursuant to title V, 1990 Amendments and part 70 (1992).

## B. Options for Approval/Disapproval and Implications

Pursuant to 40 CFR 70.4(d), Texas requested that the EPA approve the Texas Operating Permits Program as a source category-limited interim program for a period of two years. The EPA is proposing to grant interim approval to the operating permits program submitted by Texas on November 15, 1993, for a period of two years.

Volume I of the Texas operating permits program submittal includes the rationale for requesting interim approval. The State projects that over 3,000 major sources will be subject to the operating permits program. Many of these sources are complex. The EPA recognizes that a large percentage of the Nation's title V sources will be permitted by a single agency and that a ramp-up period is essential. The time

following interim approval will allow the State to hire additional engineers and train experienced engineers to write quality permits that consolidate all applicable requirements into one document. Furthermore, the additional time is necessary to develop a computer information management system that will manage the permits, permit applications, and additional documentation. This computer system will be the mechanism used to interchange information between the TNRCC, the EPA, the affected States, the regulated community, and the general public. Such a database will give interested parties an efficient mechanism to review the current applicable requirements and the compliance status of a source. The EPA is satisfied that the State has demonstrated compelling reasons for a source category-limited interim approval.

Between the interim program and the full program, the transition schedule requires the State to take final action on applications for 400 sites each of the first two years, 1,000 sites the third year, and 600 sites each of the last two years. Therefore, it is projected that 60 percent of the sources required to obtain operating permits will obtain those permits in the first three years of the program.

State-specific circumstances preclude the TNRCC from demonstrating coverage of sources which are responsible for at least 80 percent of the aggregate emissions during the interim period. The State will be required to permit complex stationary sources such as refineries and petrochemical plants. These complex plants can have as many as 3,000 emission units per source. The State's rationale for requesting interim approval is to permit these complex sources toward the end of the permit issuance period (rather than during the first two years). The State designed the interim program to bring in similar types of sources and those which have the fewest number of emission points. This will enable the State to spend its resources on writing quality permits that are federally enforceable. The EPA is confident that the State is addressing enough sources in those first three years to represent a significant portion of the program.

## III. Proposed Rulemaking Action

In this action, the EPA is proposing source category-limited interim approval of the operating permits program submitted by the State of Texas. The program was submitted by the State to the EPA for the purpose of complying with Federal requirements