Section 70.4(b)(4) requires the submission of relevant permitting program documentation not contained in the regulations, such as permit application forms, permit forms and relevant guidance to assist in the State's implementation of its permit program. Appendix A of the DHEC submittal includes the permit application forms and permit forms, and it has been determined that the application forms and the permit forms meet the requirements of 40 CFR 70.5(c) and 40 CFR 70.6, respectively.

2. Regulations and Program Implementation

The State of South Carolina has submitted Chapter 61–62.70 "Title V Operating Permit Program" for implementing the State part 70 program as required by 40 CFR 70.4(b)(2). Sufficient evidence of its procedurally correct adoption is included in Appendix H of the submittal. Copies of all applicable State statutes and regulations that authorize the part 70 program, including those governing State administrative procedures, were submitted with the State's program.

The South Carolina operating permits regulations follow part 70 very closely. The following requirements, set out in EPA's part 70 operating permits program review, are addressed in Section II of the State's submittal:

(A) Applicability requirements, (40 CFR 70.3(a)): 61–62.70.3(a);

(B) Permit applications, (40 CFR 70.5): 61–62.70.5;

(C) Provisions for permit content, (40 CFR 70.6): 61-62.70.6; Standard permit requirements: (40 CFR 70.6(a)): 61-62.70.6(a); Permit duration: (40 CFR 70.6(a)(2)): 61-62.70.6(a)(2); Monitoring and related recordkeeping and reporting requirements: (40 CFR 70.6(a)(3)): 61-62.70.6(a)(3); Compliance requirements: (40 CFR 70.6(c)): 61-62.70.6(c);

(D) Operational flexibility provisions, (40 CFR 70.4(b)(12)): 61–62.70.7(e)(5);

(E) Provisions for permit issuance, renewals, reopenings and revisions, including public participation (40 CFR 70.7): 61–62.70.7; and

(F) Permit review by EPA and affected State (40 CFR 70.8): 61–62.70.8. The South Carolina Pollution Control Act, section 48–1–320, section 48–1–330, and section 48–1–50 satisfy the requirements of 40 CFR 70.11, for enforcement authority.

DHEC regulations contain a definition of the phrase "title I modification" which does not include changes which occur under the State's minor new source review regulations approved into the South Carolina State

Implementation Plan (SIP). On August 29, 1994, EPA proposed revisions to the interim approval criteria in 40 CFR 70.4(d) to, among other things, allow State programs with a more narrow definition of "title I modification" to receive interim approval (59 FR 44572). The Agency also solicited public comment on the proper interpretation of "title I modifications" (59 FR 44573). The Agency stated that if, after considering the public comments, it continues to believe that the phrase "title I modifications" should be interpreted as including minor NSR changes, it would revise the interim approval criteria as needed to grant states that adopted a narrower definition interim approval. EPA intended to finalize its revisions to the interim approval criteria under 40 CFR 70.4(d) before taking final action on part 70 programs. However, this is no longer possible. Until the revision to the interim approval criteria is promulgated, EPA's choices are to either fully approve or disapprove the narrower "title I modification" definition in states such as South Carolina. For the reasons set forth below, EPA believes that proposing disapproval for such programs at this time solely because of this issue would be inappropriate.

First, EPA has not yet conclusively determined that a narrower definition of "title I modification" is incorrect and thus a basis for disapproval or interim approval. Second, EPA believes that the South Carolina program should not be considered for disapproval because EPA itself has not yet been able resolve this issue through rulemaking and is solely responsible for the confusion on what constitutes a "title I modification" for part 70 purposes. Moreover, proposing disapproval for programs from states such as South Carolina that submitted their programs to EPA on or before the November 15, 1993, statutory deadline could lead to the perverse result that these states would receive disapprovals, while states which were late in submitting programs could take advantage of revised interim approval criteria if and when these criteria become final. In effect, states would be severely penalized for having made timely program submissions to EPA. Finally, proposing disapproval of a State program for a potential problem that primarily affects permit revision procedures would delay the issuance of part 70 permits, hampering state/ Federal efforts to improve environmental protection through the operating permits system. For further rationale on EPA's position on the

determination of what constitutes a "title I modification," see EPA's final interim approval of the State of Washington's part 70 operating permits program (59 FR 55813, November 9, 1994).

For the reasons mentioned above, EPA is proposing approval of the South Carolina program's use of a narrower definition of "title I modification" at this time. DHEC has issued a commitment to expeditiously revise the State's definition of "title I modification" if it is found at a later date to be inconsistent with EPA's revised definition in the rulemaking listed above.

DHEC established a process subject to EPA approval to determine insignificant activities and emissions levels in Regulation 61–62.70.5(c). Regulation 61-62.70.5(c) includes activities/ emissions sources that are not required to be included in the permit application. Regulation 61–62.70.5(c) includes activities/emissions sources that must be listed in the permit application, but whose emissions do not have to be quantified. Notwithstanding Regulation 61-62.70.5(c), applicants are required to include all emission sources and quantify emissions if needed to determine major source compliance with an applicable requirement, or to collect any permit fee.

Part 70 of the operating permits regulations 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 under 40 CFR 70.6(a)(3)(iii)(A) which is a distinct reporting obligation. Where "prompt" is defined in the individual permit, but not in the program regulations, EPA may veto permits that do not require sufficiently prompt reporting of deviations. The State of South Carolina has not defined prompt in its program regulations with respect to reporting of