

delegation of unchanged section 112 standards under the authority of section 112(l) as they apply to part 70 sources. Upon receiving approval under section 112(l), the City of Albuquerque/Bernalillo County may receive delegation of any new authority required by section 112 of the Act through the delegation process.

The City of Albuquerque/Bernalillo County have the option at any time to request, under section 112(l) of the Act, delegation of section 112 requirements in the form of City regulations which the City/County demonstrate are equivalent to the corresponding section 112 provisions promulgated by the EPA. At this time, the City/County plan to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 requirements into their regulations.

The radionuclide NESHAP is a section 112 regulation and therefore, also an applicable requirement under the City/County 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 City/County in the development of their 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 any HAPs unless the State/local agency determines that the maximum achievable control technology (MACT) emission limitation under section 112(g) will be met. Such determination must be made on a case-by-case basis where no applicable limitations have been established by the Administrator. During the transition period from the title V effective date to the date the City/County have taken appropriate action to implement the final section 112(g) Federal rule, proposed on April 1994 (59 FR 15504), (either by adoption of the unchanged Federal rule or approval of an existing State rule under section 112(l)), the City of Albuquerque/Bernalillo County intend to implement section 112(g) of the Act through the City/County's preconstruction process using a two-pronged approach.

Immediately upon approval of their operating permits program, the City/

County intend to implement section 112(g) through their existing preconstruction rule, AQC Regulation 20. This rule was previously approved by the EPA to implement the preconstruction requirements of title I of the Act.

The second phase of the City/County's section 112(g) implementation approach during the transition period is expected to be based on the City/County board's adoption of the New Mexico State rule, AQCR 755, into their existing City/County regulations, AQC Regulation 20 and Regulation 41. The New Mexico State rule, AQCR 755 clarifies the requirements set out in the proposed Federal section 112(g) rule and its preamble.

The City/County anticipate that the incorporation of the language of the State rule into City/County AQC Regulations 20 and 41 will be effective by mid-March 1995. When final, this incorporation is expected to enhance the mechanism contained in Albuquerque's existing preconstruction rule, AQC Regulation 20, for the implementation of section 112(g). If the New Mexico State rule AQCR 755 is not finally incorporated by the City/County, or is incorporated with substantial changes from the State rule as promulgated, the City/County rule, AQC Regulation 20 will continue to provide authority for the implementation of Federal section 112(g). After the final Federal section 112(g) rule is promulgated, the City/County will be required to formally revise their rules accordingly.

The City of Albuquerque/Bernalillo County commit to appropriately implementing 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. This includes a commitment to implement both promulgated section 112 Federal standards and section 112 requirements such as section 112(g) that are not federally promulgated standards.

The City of Albuquerque/Bernalillo County commit to having an acid rain program in place by April 1995. The EPA acknowledges that this date, which is later than the January 1, 1995, date set out in the EPA policy, is a result of the fact that Albuquerque/Bernalillo County will rely on the State's regulations for the development of their final acid rain regulations. Therefore, the City/County rule adoption process requires that they await final action on the State's rules prior to taking final action on their acid rain rules. This is consistent with the requirement of NMSA section 74-2-4, that the City/County requirements be no less stringent than the corresponding

State requirements. The State will meet the January 1995 date as required in policy drafted by the Acid Rain Division, and the City of Albuquerque/Bernalillo County will have their acid rain program in place by April 1995. The City/County commit to submitting copies of their draft acid rain rules, regulations and guidance for review and comment to meet the Federal implementation date to issue permits by December 1997.

5. Enforcement Provisions

The APCD's operating permits program submittal addressed the enforcement requirements of 40 CFR 70.4(b)(4)(ii) and 70.4(b)(5) in the operating permit program plan, Section IV(E)—"Operating Permit Program Enforcement Procedures." A copy of the signed Memorandum of Understanding between the EPA Region 6 and the APCD is kept in the Region 6 file room. This document, which is a product of negotiations between the EPA Region 6 and the APCD, was signed prior to the submittal date of the operating permits program. The Operating Permits Program Plan, Sections IV(D), IV(E) and IV(F) of the City/County's submittal, addresses the following issues: (A) Compliance tracking and enforcement plan (40 CFR 70.4(b)(4)(ii) and 70.4(b)(5)); (B) Commitment to submit enforcement information (40 CFR 70.4(b)(9)); and (C) Enforcement authority (40 CFR 70.4(b)(2) and 70.4(b)(3)(vii)).

6. Technical Support Document

The results of this review are shown in the document entitled "Technical Support Document," which is available in the docket at the locations noted above. The technical support documentation shows that all operating permits program requirements of part 70 and relevant guidance were met by the submittal for the APCD, except with regard to criminal fine authority.

7. Summary

The City of Albuquerque/Bernalillo County submitted to the EPA, an operating permits program under a cover letter dated March 25, 1994, from the New Mexico Governor's designee Mr. Lawrence Rael, for the City of Albuquerque as Chief Administrative Officer and for Bernalillo County as the administrative head of the Albuquerque/Bernalillo County Operating Permits Program. This program was submitted for the purpose of complying with Federal requirements regarding an operating permits program. The submittal has adequately addressed all sixteen (16) elements required for