issuance that is provided to a non-complying source may not be inconsistent with part 70. EPA would not, however, recognize variances that grant relief from the duty to comply with the terms of an issued federally enforceable part 70 permit except where such relief is granted through procedures allowed by part 70. Once again, EPA is not taking any action on Illinois' variance procedures. The Agency is only clarifying that all variances provided by the State for title V sources must be granted in accordance with part 70.

3. Insignificant Activities

Four commentors responded to EPA's proposed concerns regarding Illinois' draft insignificant activities regulations. In response to these comments EPA reviewed the draft regulations a second time. On February 2, 1995, EPA formally received a final copy of these regulations for inclusion in the State's CAAPP submittal. Please see the docket for a more detailed review of the Illinois rule

All commentors objected to EPA's interpretation that the threshold levels of 1.0 pound per hour (lb/hr) of criteria pollutants and .1 lb/hr of HAP in 35 İllinois Administrative Code (IAC) Part 201.211 are not acceptable. These cutoff rates mentioned above are contained in the State's provision, "Application for Classification as an Insignificant Activity." 35 IAC 201.211. One commentor stated that the more appropriate classification of insignificant activities lies in different sections of the State's regulations. The section referred to by the commentor distinguishes between HAP and non-HAP emissions. For HAP calculations. the rule relies on concentrations of HAPs in the form of raw material fed to an emission unit. 35 IAC 201.209(a)(1) (A)–(C). For non-HAPs, the rule refers to emission units that never exceed .1 lb/ hr or .44 tpy. 35 IAC 201.210(a) (2) and (3). Although EPA cannot now determine whether or not the HAP calculations would result in emissions in amounts greater than the significance limits that will ultimately be finalized in the section 112(g) rulemaking, EPA also believes that the non-HAP provisions in 35 IAC 201.210(a) (2) and (3) do not now pose a problem for approval of the State's submittal. The Agency, therefore, is taking no action on these provisions. EPA originally objected to 35 IAC 201.210(a)(1), however, because this provision includes emissions determined to be insignificant according to the provisions in 35 IAC 201.211 (allowing sources to apply for insignificant activities that are

granted by IEPA's discretion). The regulatory sections offered by the commentor, therefore, are not entirely dispositive of the issue.

Úpon further reflection, EPA generally agrees with the commentors that the rate itself of 1.0 lb/hr of criteria pollutant emission cut-off contained in 35 IAC 201.211 need not be amended for full approval. Emission cut-offs approved for insignificant activities are based upon State-specific circumstances and analysis. One State's cut-offs may not be appropriate for another State's programs due to variations in local factors such as non-attainment areas. State Implementation Plans (SIP), source types, and emissions. EPA believes the State should be given substantial deference in this matter and finds the insignificance levels established by Illinois will not, in and of themselves, interfere with the State's ability to ensure that part 70 sources meet all applicable requirements of the SIP. Although a severe ozone nonattainment area exists in the State, EPA believes that it is reasonable in this case to project that the insignificant levels established in the State of Illinois' regulations will not interfere with its effort to be reclassified as attainment. Illinois believes that this level will not only reduce its administrative burden, but allow it to eventually meet its attainment demonstrations.

The Agency, however, is still concerned with the development of these regulations and continues to believe that interim approval is appropriate for these rules at this time. 35 IAC 201.208 of the State's rule does not meet the requirements of 40 CFR 70.5(c), which requires that an application may not omit information needed to determine the applicability of, or to impose, any applicable requirements, or to evaluate the fee amount required under the schedule approved pursuant to 40 CFR 70.9. These provisions are intended to ensure that sources do not file incomplete permit applications due to inadvertent usage of a State's insignificant activity provisions. In addition, 35 IAC 201.210(b) must be amended to clarify that a source must specifically list in its permit application the activities present at its facility and not just rely on a general statement that denotes the presence of activities.

Although the emission cut-offs for criteria pollutants are not a concern at this time, revisions to the State's insignificant regulations will still be necessary for full approval of the State's program. EPA believes the State must make the following changes for full approval: (1) the language of 201.208

must worded to state that at the time of filing an application, the application must include all necessary information to determine the applicability of or to impose any applicable requirements or fees and (2) 201.210(b) must be amended so that sources specifically list the insignificant activities present at their facilities.

4. Administrative Amendments

EPA received three comments on the inclusion of the State's incorporation of emission trades based upon a SIPapproved trading program into a title V permit based upon the administrative amendment procedure. Two of the commentors requested clarification as to whether EPA intends to subject emissions trading that occurs under an emissions cap established in a part 70 permit to significant modification procedures. One commentor stated that it is not necessary for EPA to consider this provision now since Illinois has no such regulations developed concerning emissions trading.

Responding to the commentors' request for clarification, EPA does *not* interpret part 70 to require states to subject emissions trades that occur under an emissions cap established in a part 70 permit to significant modification procedures. These trades are established by a part 70 permit and, therefore, sources do not need to revise their part 70 permits when utilizing these trading provisions.

Part 70, however, does not allow the use of an administrative permit amendment to accomplish incorporation of emissions trades resulting from the application of an approved economic incentives rule, a marketable permits rule or a generic emissions trading rule into a part 70 permit. 40 CFR 70.7(d). Any substantive change to a permit term or condition must follow the permit revision procedures of part 70. Future part 70 rulemakings may change this requirement, but for the present, EPA can only review State submittals in accordance with the promulgated part 70 rulemaking of July 21, 1992

Despite the fact that Illinois does not currently have an approved trading program, it is appropriate for EPA to now consider this State legislative provision allowing emission trades to be incorporated through the administrative amendment procedure. EPA cannot approve regulations in a State program that would conflict with provisions in the part 70 regulations.

5. Compliance Certification

Three commentors objected to EPA's proposed interim approval regarding the