to applicable requirements. EPA therefore continues to believe that the Washington IEU provisions extend the exemption for IEUs beyond the limited exemption authorized by part 70. Accordingly, EPA is again proposing that full approval of the Washington operating permits program be conditioned on changes to Washington's treatment of IEUs.

## II. Discussion

A. Proposed Interim Approval of Washington IEU Regulations

1. Part 70 Requirements for Insignificant **Emission Units** 

EPA's regulations for operating permits programs authorize States to establish provisions for IEUs. Specifically, 40 CFR 70.5(c) states:

The Administrator may approve as part of a State program a list of insignificant activities and emissions levels which need not be included in permit applications. However, for insignificant activities which are exempted because of size or production rate, a list of such insignificant activities must be included in the application. 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 under the schedule approved pursuant to § 70.9 of this

## In addition, § 70.5(c)(3)(i) states:

A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this paragraph (c) of this section. The permitting authority shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule approved pursuant to § 70.9(b) of this part.

Although both of these provisions authorize a State permitting program to grant certain relief for IEUs in its permit application, both provisions also require that the source submit sufficient information for the permitting authority to be able to verify the requirements applicable to the source and to collect appropriate permit fees. Where information about an IEU is necessary to determine the applicability of, or to impose in the permit, an applicable requirement, then the permit application must contain sufficient information to make that determination. Similarly, if the approved fee schedule imposes fees based on all emissions from a source, including emissions from IEUs, and requires the fee amount to be determined in the permit application, then the application must include emissions information for IEUs.

In addition, a title V permit must contain all requirements applicable to the source, including those requirements applicable to IEUs. Section 504(a) of the Act requires that "each permit issued under this title shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements of (the Act), including the requirements of the applicable implementation plan. (emphasis added). Section 70.6(a)(1) provides that each permit shall include 'emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance." Furthermore, § 70.6(c)(1) requires that each permit shall contain "compliance, certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit." The fact that an emission unit may emit only small quantities of pollutants does not provide a basis for exempting it from the fundamental statutory requirement that the permit specifically include, and ensure compliance with, all applicable requirements.

As such, EPA interprets part 70 as allowing States to substantially reduce the burden of information required in permit applications for IEUs, but requiring that sufficient information still be provided in the application to determine the applicability of, and to impose in the permit, all applicable requirements that apply to IEUs. EPA also interprets part 70 as requiring a title V permit to contain all applicable requirements for all emission units, even for IEUs.

This means that some of the information required by §§ 70.5(c)(3) through (9) (Standard application form and required information) may need to be included in the permit application for IEUs in order for the permitting authority to draft an adequate operating permit. As an example, where an IEU is not in compliance with an applicable requirement at the time of permit issuance, the permit application would need to contain a compliance plan, including a compliance schedule, for achieving compliance with the applicable requirement. As another example, if a source has some IEUs within a category that are subject to an applicable requirement and some within

that same category that are not subject to that applicable requirement because the applicability criteria for the applicable requirement are different from the applicability criteria for IEUs, the permit application would generally be required to include sufficient information on the IEUs for the permitting authority to determine which units are subject to the applicable requirement and to include that applicable requirement in the permit for the subject IEUs. EPA believes that part 70 would also authorize EPA to approve a State program that requires a permit application to simply list the applicable requirements that apply to IEUs generally, rather than requiring the permit application to explicitly identify which IEUs are subject to which applicable requirements. The State would then issue a permit imposing the applicable requirements in the permit, but not specifically identifying which IEUs are subject to those applicable requirements. In such a case, however, EPA believes that 40 CFR 70.6(f) would not authorize the State to grant a permit shield to IEUs because there would have been no determination in the permitting process that certain IEUs were or were not subject to certain applicable requirements.

## 2. Washington Requirements for Insignificant Emission Units

a. Definition of "insignificant activities" and "insignificant emission units" under the Washington program. WAC 173-401-200(16) defines an "insignificant activity" or an "insignificant emission unit" as any activity or emission unit located at a title V source which qualifies as insignificant under the criteria listed in WAC 173-401-530. Section 173-401-530(1) authorizes activities and emission units to be considered insignificant if (a) actual emissions of all regulated pollutants from the unit or activity are less than the emission thresholds established in WAC 173-401-530(4); (b) the activity or emission unit is listed in WAC 173-401-532 as ''categorically exempt''; (c) the activity or emission unit is listed in WAC 173-401-533 and is considered insignificant based on size or production rate; or (d) the activity or emission unit generates only fugitive emissions, which are subject to no applicable requirement other than generally applicable requirements of the Washington state implementation plan (SIP). Although WAC 173-401-200(16) and

WAC 173-401-530 meet the requirements of part 70 for designating