IEUs,1 the Washington program contains unacceptably broad exemptions from permit program requirements. WAC 173–401–200(16) provides that activities and units deemed insignificant under WAC 173-401-530 are exempt from Washington's permit program requirements, except as provided in WAC 173-401-530. As discussed in more detail below, WAC 173-401-530 does not include all of the requirements of part 70 which are necessary to comply with the provisions of § 70.5 regarding permit applications and § 70.6 regarding permit content for those IEUs which are subject to applicable requirements. It also appears to exempt IEUs in determining whether a source is even subject to Washington's operating permits program. WAC 173-401-532 and 173-401-533 also state that IEUs are "exempt from this chapter [WAC 173-401]. ' 1a

WAC 173–401–530(2)(a) does limit the exemption of WAC 173-401-200(16) by providing that no activity or emission unit subject to a federally enforceable applicable requirement (other than generally applicable requirements of the Washington SIP) shall qualify as insignificant. Nonetheless, EPA believes that the Washington program impermissibly exempts from many of the permit content requirements, certain permit application requirements, and possibly even applicability determinations those IEUs that are subject to federally enforceable generally applicable requirements of the Washington SIP, but no other federally enforceable applicable requirements. Thus, although the Washington regulations comply with part 70 regarding the designation of IEUs, they do not comply with the requirements for the treatment of IEUs.

b. Permit content. As stated above, WAC 173–401–200(16) exempts IEUs

from Washington's "permit program requirements except as provided in WAC 173-401-530." IEUs are therefore exempt from all of the permit content requirements in WAC 173-401-600 through 650.2 In addition, WAC 173-401–530(2)(c) specifically (and redundantly) exempts IEUs from the testing, monitoring, reporting and recordkeeping requirements of WAC 173-401-615 and WAC 173-401-630(1) except where generally applicable requirements of the Washington SIP specifically impose such requirements, and WAC 173-401-530(2)(d) specifically (and again redundantly) exempts IEUs from the compliance certification requirements of WAC 173-401–630(5). Finally, WAC 173–401–532 and -533, which contain the lists of IEUs, specifically state that IEUs are "exempt from this chapter (WAC 173-401)." In place of those requirements, WAC 173-401-530(2)(b) simply requires the permit application to list and the permit to contain all generally applicable requirements that apply to

Nothing in part 70 authorizes a State to omit from a title V permit applicable requirements or the elements of a title V permit specified in section 40 CFR 70.6. Although the Washington regulations ensure that all applicable requirements will be included in a title V permit, WAC 173-401-200(16) exempts IEUs from all of the required title V permit elements except for the generally applicable requirements of the Washington SIP. In other words, a title V permit would not be required to contain any elements required by § 70.6 for IEUs other than the generally applicable requirements themselves. Thus, a title V permit in Washington would not be required to include 'gapfilling'' testing, monitoring, recordkeeping and reporting requirements for IEUs, as required by 40 CFR 70.6(a)(3)(i), (ii) and (iii); compliance certification, testing, monitoring, reporting and recordkeeping requirements sufficient to assure compliance with the generally applicable requirements for subject IEUs, as required by 40 CFR 70.6(c)(1); compliance certification for IEUs, as required by 40 CFR 70.6(c)(5); and, for IEÛs not in compliance, a compliance

schedule and progress reports, as required by 40 CFR 70.6(c)(3) and (4).

For example, where a source had an IEU that was subject only to a generally applicable requirement in the Washington SIP, the title V permit would be required to contain only those permit provisions required by $\S\S 70.6(a)(1), 70.6(a)(3)(i)(A),$ 70.6(a)(3)(ii) and 70.6(a)(3)(iii) that are generally applicable requirements themselves. Washington would not be required to "gapfill" any testing or monitoring requirements for IEUs subject to applicable requirements which did not contain their own testing or monitoring methods, as required by § 70.6(a)(3)(i)(B). Washington would also not be required to include in permits compliance and compliance certification requirements for IEUs subject to applicable requirements, as required by $\S 70.6(c)(1)$ and (5). For these reasons, EPA believes that the Washington provisions for IEUs do not fully meet the requirements of § 70.6 with respect to the treatment of IEUs subject to applicable requirements.

c. Permit applications. The Washington program meets the requirements of 40 CFR 70.5 (Permit Applications), including the requirement of § 70.5(c) that an application may not omit information needed to determine the applicability of, or to impose, any applicable requirement or evaluate any required fee, with respect to all emissions units except for IEUs. See WAC 173-401-500 (Permit application), -510 (Permit application forms), and -520 (Certification). The definition of "insignificant activity" and "insignificant emission unit" in WAC 173–401–200(16), however, exempts IEUs from all of these requirements, except those contained in WAC 173-401–530. Furthermore, WAC 173–401– 532(1) exempts categorically exempt units and activities from permit applications entirely and WAC 173-401-533(1) exempts emission units and activities deemed insignificant based on size or production rate from all permit application requirements except a requirement to include a list of such units and activities in the permit application. In place of the permit application requirements that apply to all other emission units at title \ sources in Washington, WAC 173-401-530(2)(b) simply requires that the permit application list all generally applicable requirements that apply to insignificant emission units or activities at the source and, as stated above, WAC 173-401-530(1) requires that the permit application contain a list of IEUs which

¹ It is important to distinguish EPA's concept of "insignificant activities and emission levels" envisioned in section 70.5(c) and Washington's definition of "insignificant activity" and ''insignificant emission unit'' in WAC 173–401– 200(16) and WAC 173-401-530. Section 70.5(c) allows State programs to include a list of 'insignificant activities" and "insignificant emission levels" which are based solely on classification by source category and/or emission rates. The Washington definition utilizes a similar approach but further restricts "insignificant activities" and "insignificant emission units" to those activities and units that are subject only to generally applicable requirements of the Washington SIP and no any other federally enforceable applicable requirements.

^{1a} For purposes of this action, "IEU" refers to activities and emissions units that are defined as insignificant under WAC 173–401–200(16) and 173 401–530, when used in discussing the Washington program, and refers to the generic concept under part 70, when used in discussing the requirements of part 70.

²These include WAC 173–401–600 (Permit content); 173–401–610 (Permit duration); WAC 173–401–615 (Monitoring and related recordkeeping and reporting requirements); WAC 173–401–620 (Standard terms and conditions); WAC 173–401–625 (Federally enforceable requirements); 173–401–630 (Compliance requirements); 173–401–635 (Temporary sources); 173–401–640 (Permit shield); 173–401–645 (Emergency provision); 173–401–650 (Operational flexibility).