District's permitting regulation, contained several deficiencies that were cause for disapproval of the program. The EPA described these deficiencies and the corrections necessary to make the program eligible for interim approval in a letter from Felicia Marcus, EPA Region IX Administrator, to Abra Bennett, Monterey Air Pollution Control Officer (APCO), dated July 22, 1994. In response, Monterey adopted a revised regulation which was submitted by CARB on the District's behalf on October 13, 1994. On May 16, 1995, EPA proposed interim approval of Monterey's title V operating permits program in accordance with § 70.4(d), on the basis that the program ''substantially meets'' part 70 requirements. The analysis in the proposed document remains unchanged and will not be repeated in this final document. With the exception of the modification to the interim approval issue regarding affected state review discussed below in II.B.5., the program deficiencies identified in the proposed document, and outlined below in II.C., remain unchanged and must be corrected for the District to have a fully approvable program.

At the time of proposal, EPA believed that an implementation agreement would be completed prior to final interim approval. The EPA and Monterey have not yet finalized the implementation agreement, but are working to do so as soon as practicable.

B. Public Comments and Responses

The EPA received comments on the proposed interim approval of the Monterey program from one public commenter, the Monterey Bay Unified Air Pollution Control District. These comments are discussed below.

1. Insignificant Activities

Monterey commented that it would like to propose, for full title V program approval, emission levels for insignificant activities of 2 tons per year for criteria pollutants and the lesser of 1000 pounds per year, section 112(g) de minimis levels, or other title I significant modification levels for hazardous air pollutants and other toxics. The District commented that it believes these levels to be sufficiently below the applicability thresholds for all applicable requirements and will ensure that no unit potentially subject to an applicable requirement is left off of a title V permit application.

In the May 16, 1995 proposed interim approval of Monterey's program, EPA stated that it had proposed to accept, as sufficient for full approval of other state and district programs, the emission

levels for insignificant activities as described above in Monterey's comment. The EPA stated that it believes these levels to be sufficiently below the applicability thresholds of many applicable requirements to assure that no unit potentially subject to an applicable requirement is left off a title V application. Monterey has commented that it believes these levels to be appropriate for determining insignificant activities in the District. If Monterey establishes these emission levels for defining insignificant activities in its program and submits this as a title V program revision to EPA, EPA will find that aspect of the insignificant activity definition fully approvable. As discussed below in II.C.7., to receive full approval of its insignificant activity provisions, Monterey must also revise Rule 218 to require that insignificant activities that are exempted because of size or production rate be listed in the permit application and to require that 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.

2. "Title I Modification"

Monterey commented that "title I modifications" should not be interpreted to include minor new source review and endorsed the recommendations and legal arguments made by CARB in its September 27, 1994 letter from Michael Scheible to the EPA Air Docket.

At the time of the May 16, 1995 proposed interim approval, EPA was in the process of determining the proper definition of title I modification, and therefore did not identify Monterey's treatment of title I modification as necessary grounds for either interim approval or disapproval. In an August 29, 1994 rulemaking proposal, EPA explained its view that the better reading of "title I modifications" includes minor NSR. However, the Agency solicited public comment on whether the phrase should be interpreted to mean literally any change at a source that would trigger permitting authority review under regulations approved or promulgated under title I of the Act. (59 FR 44572, 44573). This would include state preconstruction review programs approved by EPA as part of the State Implementation Plan under section 110(a)(2)(C) of the Clean Air Act.

The EPA has not yet taken final action on the August 29, 1994 proposal. However, in response to public comment on that proposal, the Agency has decided that the definition of "title I modifications" is best interpreted as not including changes reviewed under minor NSR programs. This decision was announced in a June 20, 1995 letter from Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, to Congressman John D. Dingell, and will be included in a supplemental rulemaking proposal that will be published in September, 1995. Thus, EPA expects to confirm that Monterey's definition of "title I modification" is fully consistent with part 70.

The August 29, 1994 action proposed to, among other things, allow state programs with a more narrow definition of "title I modifications" to receive interim approval (59 FR 44572). The Agency stated that if, after considering the public comments, it continued 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 allow states with a narrower definition to be eligible for interim approval. If EPA does conclude, during this rulemaking, that Title I modifications should be read to include minor NSR, it will implement the interim approval option spelled out in the August 29, 1994 proposal.

3. Implementation Agreement

In the May 16, 1995 proposed interim approval, EPA stated that an implementation agreement is currently being developed by EPA and Monterey. Monterey commented that they disagree with EPA over the structure and the basis for an implementation agreement and take exception to the implementation agreement language contained in the notice and therefore suggest that it be removed prior to publication of the final notice. Since Monterey submitted this comment, EPA and the District have engaged in numerous conversations regarding the implementation agreement and Monterey has indicated that it does intend to develop an agreement with EPA. EPA and the District are currently negotiating the appropriate format and content of that agreement.

4. District Rule 201 Correction

Monterey commented that EPA had incorrectly stated in the May 16, 1995 proposal that Rule 201 "was adopted or revised to implement title V." The District pointed out that Rule 201 was adopted prior to promulgation of part 70 and was not revised to implement title V. The EPA therefore revises the statement made in the May 16, 1995 proposal to state that Rule 201 was submitted as a supporting regulation of