the Monterey title V program. This change does not affect EPA's May 16, 1995 proposed action.

5. Affected State Review

In the May 16, 1995 proposed interim approval, EPA proposed that in order to receive full approval Monterey must revise Rule 218 to define and provide for giving notice to affected states per §§ 70.2 and 70.8(b). The EPA reasoned that although emissions from Monterey may not currently affect any neighboring states, Native American tribes may in the future apply for treatment as states for air program purposes and if granted such status would be entitled to affected state review under title V. (See EPA's proposed Tribal Air Rule at 59 FR 43956, August 25, 1994.) Monterey commented that it would be appropriate to revise Rule 218 to provide for giving notice to affected states at such time as a Native American tribe or tribes apply for treatment as a state. The EPA is concerned about the timing issues involved with delaying the adoption of affected state notice provisions in Monterey's program until tribes apply for state status. Although the federal rule that will enable tribes to apply for treatment as states has not yet been finalized, and there are no tribes currently eligible for treatment as a state under the Act, EPA believes that the likelihood of Native American tribes qualifying as affected states under part 70 is great and that Monterey will ultimately need to revise its rule to address this outcome. Nonetheless, EPA is willing to accept as an alternative to adopting affected state notice provisions up front, a commitment to: (1) Initiate rule revisions upon being notified by EPA of an application by an affected tribe for state status, and (2) provide affected state notice to tribes upon their filing for state status (i.e., prior to Monterey revising Rule 218 to incorporate affected state notice procedures).

C. Final Action

1. Monterey's Title V Operating Permits Program

The EPA is promulgating interim approval of the operating permits program submitted by the Monterey Bay Unified Air Pollution Control District. The District must make the following changes, or changes that have the same effect, to receive full approval:

(1) Revise section 1.3 to require that, regardless of the source's actual or potential emissions, acid rain sources and solid waste incineration units required to obtain a permit pursuant to

section 129(e) of the Act may not be exempted from the requirement to obtain a permit pursuant to Rule 218. Section 70.3(b) requires that major sources, affected sources (acid rain sources), and solid waste incinerators may not be exempted from the program. Monterey's deferral for certain major sources other than acid rain sources and solid waste incinerators is allowable under EPA's "Interim Approval Guidance," issued by John Seitz on August 2, 1993.

(Ž) Revise section 2.1.4 of the definition of "Administrative Permit Amendments" as follows:

"requires more frequent monitoring or reporting for the stationary source; or"

Increasing monitoring requirements could be a significant change to these requirements. Significant changes in monitoring must be processed as significant permit modifications. (§ 70.7(d)(1)(iii), § 70.7(e)(4))

(3) Revise the definition of "Federally Enforceable Requirement" in section 2.12 to include any standard or other requirement provided for in the State Implementation Plan approved or promulgated by EPA. This revision is necessary to make the section 2.12 definition consistent with the part 70 definition of "Applicable requirement" and with the Rule 218, section 4.2.4 requirement that each permit require compliance with any standard or requirement set forth in the applicable implementation plan.

(4) Revise section 2.18.4 of the definition of "Minor Permit Modification" to require that a minor permit modification may not *establish* or change a permit condition used to avoid a federally enforceable requirement to which the source would otherwise be subject. (§ 70.7(e)(2)(i)(A)(4))

(5) Revise section 3.1.6.12 to require that the compliance certification within the permit application include a statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act. (§ 70.5(c)(9)(iv))

(6) Revise section 3.1.6.13 as follows to be consistent with § 70.5(c)(8)(iii)(C):

* * * a schedule of compliance approved by the District hearing board that identifies remedial measures, *including an enforceable sequence of actions*, with specific increments of progress, a final compliance date, testing and monitoring methods, recordkeeping requirements, and a schedule for submission of certified progress reports to the USEPA and the APCO at least every 6 months. *This schedule of compliance shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative* order to which the source is subject; and * * *"

- (7) Provide a demonstration that activities that are exempt from permitting under Rule 218 (pursuant to Rule 201, the District's permit exemption list) are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, Rule 218 may restrict the exemptions to activities that are not likely to be subject to an applicable requirement and emit less than District-established emission levels. The District should establish separate emission levels for HAP and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. Revise Rule 218 to require that insignificant activities that are exempted because of size or production rate be listed in the permit application. Revise Rule 218 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. (§ 70.5(c), § 70.4(b)(2))
- (8) Revise section 3.5.3 to provide that the APCO shall also give public notice "by other means if necessary to assure adequate notice to the affected public." (§ 70.7(h)(1))
- (9) Revise Rule 218 to include the contents of the public notice as specified by § 70.7(h)(2).
- (10) Revise Rule 218 to provide that the District shall keep a record of the commenters and of the issues raised during the public participation process so that the Administrator may fulfill her obligation to determine whether a citizen petition may be granted. (§ 70.7(h)(5))
- (11) The EPA must be provided with 45 days to review the version of the permit that incorporates any public comments and that the District proposes to issue. Rule 218 indicates that the District intends to provide for concurrent public and EPA review of the draft permit. Therefore, the District must revise the rule to provide that EPA will have an additional 45 days to review the proposed permit if it is revised as a result of comments received from the public. (§ 70.8(a)(1))
- (12) Revise Rule 218 to define and provide for giving notice to affected states per §§ 70.2 and 70.8(b).

 Alternatively, Monterey may make a commitment to: (1) Initiate rule revisions upon being notified by EPA of an application by an affected tribe for state status, and (2) provide affected