should not be interpreted to mean that Wisconsin has no discretion in determining its action on individual permit renewal applications for noncomplying sources.

8. Reopenings for Cause

Three commenters disagreed with EPA's proposal that, as a condition for full approval, Wisconsin's program must be revised to require permits to be reopened for cause under certain circumstances. Some commenters noted that the State reopening provisions are structured differently than the part 70 reopening provisions. The EPA proposed that reopening permits for cause must be mandatory for the following State provisions: ss.NR 407.14(1) (b), (c), (d), and (h), Wis. Adm. Code.

One commenter specifically opposed the mandatory reopening requirement for s.NR 407.14(1)(b), which provides for reopening to assure compliance with applicable requirements. This provision is equivalent to 40 CFR 70.7(f)(1)(iv), which requires reopening if the permitting authority determines that the permit must be revised to assure compliance with applicable requirements. Therefore, s.NR 407.14(1)(b) must be revised to require reopenings to assure compliance with applicable requirements. In addition, the same commenter referenced 40 CFR 70.7(f)(1)(i) requirements in the discussion of the State's s.NR 407.14(1)(b) requirements. The Federal provisions in (i) do not preclude the requirements in (iv).

The second provision, s.NR 407.14(1)(c), provides for reopening when there is a change in any applicable requirement, a new applicable requirement, or an additional applicable requirement. This State provision includes the provisions of 40 CFR 70.7(f)(1)(i), which requires reopening of a permit with a remaining term of 3 or more years when additional applicable requirements become applicable. This State provision also includes the provisions of 40 CFR 70.7(f)(1)(ii), which requires reopening when additional requirements become applicable to an affected source under the acid rain program. Therefore, s.NR 407.14(1)(c) must be revised to require reopenings, in accordance with the 3 year requirement under 40 CFR 70.7(f)(1)(i), or the acid rain requirements under 40 CFR 70.7(f)(1)(ii), as applicable. The EPA is clarifying in the final interim approval of Wisconsin's program that s.NR 407.14(1)(c) must be mandatory only to the extent required by 40 CFR 70.7(f)(1).

The third provision, s.NR 407.14(1)(d), provides for reopening when there is a change in any applicable emission limitation, ambient air quality standard, or ambient air quality increment that requires either a temporary or permanent reduction or elimination of the permitted emission. One commenter specifically opposed the mandatory reopening requirement for this State provision, stating that 40 CFR 70.7(f)(1) does not establish any requirement that a permit be reopened in response to a change in an applicable emission limitation or an air quality increment. The EPA disagrees with this comment, as the provisions outlined in s.NR 407.14(1)(d) include additional applicable requirements that a source may be subject to. Therefore, s.NR 407.14(1)(d) must be revised to require reopenings, in accordance with the 3 year requirement under 40 CFR 70.7(f)(1)(i), or the acid rain requirements under 40 CFR 70.7(f)(1)(ii), as applicable. However, EPA is clarifying in the final interim approval of Wisconsin's program that s.NR 407.14(1)(d) must be mandatory only to the extent required by 40 CFR 70.7(f)(1).

The fourth provision, s.NR 407.14(1)(h), provides for reopening when a permit contains a material mistake or inaccurate or unclear statements. Two commenters specifically opposed the mandatory reopening requirement for this State provision, stating that the Wisconsin provision is broader than the requirements of 40 CFR 70.7(f)(1)(iii). The EPA partially agrees with the commenters. 40 CFR 70.7(f)(1)(iii) requires permit reopening when the permitting authority determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit. The Wisconsin provision is broader because it includes "unclear statements" in a permit, in addition to material mistakes and inaccurate statements. The Wisconsin provision also does not limit the "inaccurate statements" provision to emissions standards or other terms or conditions of the permit. Therefore, EPA is clarifying in the final interim approval of Wisconsin's program that s.NR 407.14(1)(h) must be mandatory only to the extent required by 40 CFR 70.7(f)(1).

One commenter also objected to any revision that would require WDNR to mandatorily reopen any operating permit issued to a non-part 70 source. The EPA's interim approval of Wisconsin's title V operating permits program only applies to the State's title

V program, and does not require the State to revise its operating permits program for non-part 70 sources.

9. Wisconsin Permitting Exemptions

Four commenters expressed concerns with EPA's proposal that, as a condition for full approval, some of Wisconsin's permitting exemptions must be revised to ensure that no part 70 sources are exempted from the requirement to obtain an operating permit.

All four commenters stated that the exemptions and associated recordkeeping and reporting requirements adequately limit potential to emit for the exempted sources. The EPA disagrees that the exemptions in question adequately limit potential to emit. As explained in the proposal, these Wisconsin permitting exemptions determine applicability based in part or totally on these sources' actual emissions or throughput, and the State's recordkeeping requirements do not provide a federally enforceable mechanism for limiting these sources' potential emissions to the actual emissions levels or throughput established in the exemptions. The recordkeeping provisions do not include specific emissions accounting requirements, and therefore do not ensure that the recordkeeping will be adequate to determine sources' actual emissions. In addition, the exemptions do not provide for any reporting requirements. Finally, mechanisms to limit potential to emit must be based on production or operation limits; emission rates do not adequately limit a source's potential to emit.

WDNR commented that, while it disagrees with EPA's concerns, WDNR commits to working with EPA to develop acceptable and practical mechanisms to deal with these source categories. The EPA agrees to work with WDNR to resolve this interim approval issue, and believes that it is important to develop mechanisms to avoid flooding the title V program with thousands of small sources that will never emit at part 70 applicability levels.

One commenter specifically objected to EPA's concern with ss.NR 407.03(1) (g) and (h). The commenter appears to be of the opinion that these exemptions are based on potential to emit because both exemptions include sources that "will emit not more than 1,666 pounds of organic compounds per month". The EPA disagrees with this interpretation. The Wisconsin provision provides an exemption for "* * * operations which emit or will emit not more than 1,666 pounds of organic chemicals per month". While this provision exempts